Volume 3

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1976

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Primary Election, June 8, 1976,
and General Election, November 2, 1976

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

1975–76 Regular Session

Compiled by
BION M. GREGORY
Legislative Counsel

CHAPTER 1012

An act to amend Sections 403, 472, 473, 474, 475, 477, 6499.56, 6499.57, 6499.60, and 17503 of, and to repeal Sections 476, 479, 6499.58, and 6499.61 of, the Education Code, relating to education.

[Approved by Governor September 16, 1976 Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 403 of the Education Code is amended to read:

403. The Director of Finance may give the Director of Education authority to accept on behalf of, and in the name of, the state such gifts, donations, bequests, and devises as may be made to the Department of Education, or to any school or other institution administered by the Director of Education or the Department of Education, which in his judgment would be of benefit to the state and, if made to a school or other institution, would be of benefit to the school or other institution. Gifts, donations, bequests, and devises may be made subject to such conditions or restrictions as the Director of Education may deem advisable.

SEC. 2. Section 472 of the Education Code is amended to read:

472. There has been developed by the Department of Education the California Education Information System, hereinafter in this article called "the system." The function of the system is to establish, conduct, and by continuous concern keep up to date a basic, integrated, statewide information system for education.

SEC. 3. Section 473 of the Education Code is amended to read:

473. In maintaining the system, the department shall:

(a) Consult and cooperate with school districts, county superintendents, advisory committees on integrated data processing, task forces for implementing the utilization of a statewide information system, intergovernmental boards on electronic data-processing and state electronic data processing policy committees created by statute or by executive order of the Governor.

(b) Cooperate with the Educational Management and Evaluation Commission in all matters relating to program budgeting.

SEC. 4. Section 474 of the Education Code is amended to read:

474. The department may consult and cooperate with public and private agencies and with educators and information specialists at the district, county, regional, state, and national levels.

The department may enter into nonexclusive licenses with public

and private agencies within or outside of the state to permit the use of the copyrighted system and may contract with such agencies to perform any of the functions set forth in this article.

SEC. 5. Section 475 of the Education Code is amended to read:

475. School districts maintaining kindergarten or any grade of grades 1 through 12, county superintendents of schools, and the department shall:

(a) Cooperate and consult in the joint conduct of the system.

(b) Coordinate information-processing activities to preclude duplication of the developmental and operational aspects of the system.

(c) Conduct educational information-processing activities in accordance with regulations of the State Board of Education adopted pursuant to this article.

SEC. 6. Section 476 of the Education Code is repealed.

SEC. 7. Section 477 of the Education Code is amended to read:

477. The department shall, among other things:

(a) Develop for statewide educational use standards for:

(1) Coding structures.

(2) Common data base.

(3) File layout and design.

(4) Flow charts.

(5) Identification of data items.

(6) Input documentation and formats.

(7) Output report formats, including those required by local, county, state, and federal agencies.

(8) Procedural manuals.

(9) Terminology.

(10) Other relevant material.

(b) Make available, without charge, to school districts, county superintendents, and other public agencies the system components, described in subdivision (a), as they are completed.

(c) Identify centers to develop or demonstrate the appropriate use of the system and the system's procedures, those districts, county superintendents, and other public agencies that are successfully using the various components of the system.

(d) Establish safeguards to assure only appropriate access to confidential information.

(e) Disseminate information about the system, and its use and availability.

(f) Adopt regulations to implement this article.

SEC. 8. Section 479 of the Education Code is repealed.

SEC. 9. Section 6499.56 of the Education Code is amended to read:

6499.56. The State Board of Education shall adopt any necessary rules and regulations necessary to implement the provisions of this chapter.

The State Board of Education may grant waivers for any provision of the Education Code as may be necessary for the development of an effective dropout prevention program.

SEC. 10. Section 6499.57 of the Education Code is amended to read:

6499.57. School districts which have dropout prevention programs shall report to the State Board of Education the effectiveness of programs in reducing the number of school dropouts.

SEC. 11. Section 6499.58 of the Education Code is repealed.

SEC. 12. Section 6499.60 of the Education Code is amended to read:

6499.60. The Department of Education shall administer the provisions of this chapter.

SEC. 13. Section 6499.61 of the Education Code is repealed.

SEC. 14. Section 17503 of the Education Code is amended to read:

17503. For purposes of this section:

(a) "Salaries of classroom teachers" and "teacher" shall have the same meanings as prescribed by Section 17200 of this code provided, however, that the cost of all health and welfare benefits provided to the teachers by the school district shall be included within the meaning of salaries of classroom teachers.

(b) "Current expense of education" means the gross total expended (not reduced by estimated income or estimated federal and state apportionments) for the purposes classified in the final budget of a school district (except one which, during the preceding fiscal year, had less than 101 units of average daily attendance) submitted to and approved by the county superintendent of schools pursuant to Section 20607 of this code for certificated salaries other than certificated salaries for pupil transportation, food services, and community services; classified salaries other than classified salaries for pupil transportation, food services, and community services; employee benefits other than employee benefits for pupil transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for pupil transportation and food services; and community services, contracted services, and other operating expenses other than for pupil transportation, food services, and community services. "Current expense of education," for purposes of this section shall not include those expenditures classified as sites, buildings, books, and media and new equipment (object of expenditure 6000 of the California School Accounting Manual) or expenditures for facility acquisition and construction; and shall not include the amount expended pursuant to any lease agreement for plant and equipment or the amount expended from funds received from the federal

government pursuant to the "Economic Opportunity Act of 1964" or any extension of such act of Congress or the amount expended by a community college from state or federal funds received by the community college for grants to community college students or for the employment of community college students.

There shall be expended during each fiscal year for payment of salaries of classroom teachers:

(a) By an elementary school district, sixty percent (60%) of the district's current expense of education.

(b) By a high school district, fifty percent (50%) of the district's current expense of education.

(c) By a community college district, fifty percent (50%) of the district's current expense of education.

(d) By a unified school district, fifty-five percent (55%) of the district's current expense of education.

If the Superintendent of Public Instruction determines that a school district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom teachers during the preceding fiscal year, he shall, in apportionments made to the school district from the State School Fund after April 15 of the current fiscal year, designate an amount of such apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount so designated by the Superintendent of Public Instruction shall be deposited in the county treasury to the credit of the school district but shall be unavailable for expenditure by the district pending the determination to be made by the Superintendent of Public Instruction on any application for exemption which may be submitted to the Superintendent of Public Instruction. In the event it appears to the governing board of a school district that the application of the preceding paragraphs of this section during a fiscal year results in serious hardship to the district or in the payment of salaries of classroom teachers in excess of the salaries of classroom teachers paid by other districts of comparable type and functioning under comparable conditions, the board may, with the written approval of the county superintendent of schools having jurisdiction over the district apply to the Superintendent of Public Instruction in writing not later than September 15th of the succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section for the fiscal year on account of which the application is made. Upon receipt of such application, duly approved, the Superintendent of Public Instruction shall grant the district exemption for any amount that is less than one thousand dollars ($1,000), and if the amount is one thousand dollars ($1,000), or greater may grant the district exemption, to the extent deemed necessary by him, from such requirements for the fiscal year on account of which the application

is made. If such exemption is granted the designated moneys shall be immediately available for expenditure by the school district governing board. If no application for exemption is made or exemption is denied, the Superintendent of Public Instruction shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year.

The Superintendent of Public Instruction shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end. He may require the submission to him, during the school year, by school district governing boards and county superintendents of schools, of such reports and information as may be necessary to carry out the provisions of this section.

SEC. 15. Section 17503 of the Education Code is amended to read:

17503. For purposes of this section:

(a) "Salaries of classroom teachers" and "teacher" shall have the same meanings as prescribed by Section 17200 of this code provided, however, that the cost of all health and welfare benefits provided to the teachers by the school district shall be included within the meaning of salaries of classroom teachers.

(b) "Current expense of education" means the gross total expended (not reduced by estimated income or estimated federal and state apportionments) for the purposes classified in the final budget of a school district (except one which, during the preceding fiscal year, had less than 101 units of average daily attendance) submitted to and approved by the county superintendent of schools pursuant to Section 20607 of this code for certificated salaries other than certificated salaries for pupil transportation, food services, and community services; classified salaries other than classified salaries for pupil transportation, food services, and community services; employee benefits other than employee benefits for pupil transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for pupil transportation and food services; and community services, contracted services, and other operating expenses other than for pupil transportation, food services, and community services. "Current expense of education," for purposes of this section shall not include those expenditures classified as sites, buildings, books, and media and new equipment (object of expenditure 6000 of the California School Accounting Manual), the amount expended from categorical aid received from the federal or state government which funds were granted for expenditures in a program not incurring any teacher salary expenditures or requiring disbursement of the funds without regard to the requirements of this section, or expenditures for facility acquisition and construction; and shall not include the

amount expended pursuant to any lease agreement for plant and equipment or the amount expended from funds received from the federal government pursuant to the "Economic Opportunity Act of 1964" or any extension of such act of Congress or the amount expended by a community college from state or federal funds received by the community college for grants to community college students or for the employment of community college students.

There shall be expended during each fiscal year for payment of salaries of classroom teachers:

(a) By an elementary school district, sixty percent (60%) of the district's current expense of education.

(b) By a high school district, fifty percent (50%) of the district's current expense of education.

(c) By a community college district, fifty percent (50%) of the district's current expense of education.

(d) By a unified school district, fifty-five percent (55%) of the district's current expense of education.

If the Superintendent of Public Instruction determines that a school district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom teachers during the preceding fiscal year, he shall, in apportionments made to the school district from the State School Fund after April 15 of the current fiscal year, designate an amount of such apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount so designated by the Superintendent of Public Instruction shall be deposited in the county treasury to the credit of the school district but shall be unavailable for expenditure by the district pending the determination to be made by the Superintendent of Public Instruction on any application for exemption which may be submitted to the Superintendent of Public Instruction. In the event it appears to the governing board of a school district that the application of the preceding paragraphs of this section during a fiscal year results in serious hardship to the district, or in the payment of salaries of classroom teachers in excess of the salaries of classroom teachers paid by other districts of comparable type and functioning under comparable conditions, the board may, with the written approval of the county superintendent of schools having jurisdiction over the district apply to the Superintendent of Public Instruction in writing not later than September 15th of the succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section for the fiscal year on account of which the application is made. Upon receipt of such application, duly approved, the Superintendent of Public Instruction shall grant the district exemption for any amount that is less than one thousand dollars ($1,000), and if the amount is one thousand dollars ($1,000), or greater may grant the district

exemption, to the extent deemed necessary by him, from such requirements for the fiscal year on account of which the application is made. If such exemption is granted the designated moneys shall be immediately available for expenditure by the school district governing board. If no application for exemption is made or exemption is denied, the Superintendent of Public Instruction shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year.

The Superintendent of Public Instruction shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end. He may require the submission to him, during the school year, by school district governing boards and county superintendents of schools, of such reports and information as may be necessary to carry out the provisions of this section.

SEC. 16. It is the intent of the Legislature, if this bill and Assembly Bill No. 2836 are both chaptered and become effective January 1, 1977, both bills amend Section 17503 of the Education Code, and this bill is chaptered after Assembly Bill No. 2836 that the amendments to Section 17503 proposed by both bills be given effect and incorporated in Section 17503 in the form set forth in Section 15 of this act. Therefore, Section 15 of this act shall become operative only if this bill and Assembly Bill No. 2836 are both chaptered and become effective January 1, 1977, both amend Section 17503, and this bill is chaptered after Assembly Bill No. 2836 in which case Section 14 of this act shall not become operative.

SEC. 17. Sections 14 and 15 of this act shall become operative July 1, 1977.

CHAPTER 1013

An act to add Section 23428.25 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 18, 1976 Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 23428.25 is added to the Business and Professions Code, to read:

23428.25. For the purposes of this article, "club" also means any Hidalgo Society the purpose of which is to operate for the advancement of education for the improvement of social and economic conditions, to help lessen neighborhood tension, lessen the

burden on welfare systems, to help eliminate prejudice and discrimination and for other charitable causes that might be present in the community. Such a group shall be located in a county of the 32nd class, have a least two hundred (200) members who pay dues, have been in existence more than three years and shall own, lease, or maintain a clubroom or rooms for its membership.

It shall be unlawful for any club licensed pursuant to this section to make any discrimination, distinction, or restriction against any person on account of such person's color, race, religion, ancestry, national origin, sex, or age.

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 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 and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1014

An act to amend Section 5902 of, and to add Section 5985.1 to, the Education Code, relating to regional occupational centers and programs.

[Approved by Governor September 18, 1976 Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 5902 of the Education Code is amended to read:

5902. The governing board of any high school district, subject to the provisions of this code relating to courses of study for high schools, the governing board of any joint powers regional occupational center or program, or the county superintendent of schools which conducts any county-operated regional occupational center or program, may establish and maintain, in connection with any high school or regional occupational center or program under its or his jurisdiction, cooperative vocational education programs in accordance with standards prescribed by the State Board of Education.

SEC. 2. Section 5985.1 is added to the Education Code, to read:

5985.1. Notwithstanding Section 5985, attendance in work experience classes or programs maintained by a regional

occupational center or regional occupational program shall not receive apportionments from state funds based on average daily attendance unless such classes or programs are in conformance with standards adopted pursuant to Section 5902.

A student enrolled in cooperative vocational education conducted by a regional occupational center or program shall not be credited with more than one day of attendance in any calendar day for purposes of such programs.

CHAPTER 1015

An act to amend Section 11190 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 19, 1976 Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 11190 of the Health and Safety Code is amended to read:

11190. Every practitioner, other than a pharmacist, who issues a prescription, or dispenses or administers a controlled substance classified in Schedule II shall make a record that, as to the transaction, shows all of the following:

(a) The name and address of the patient.

(b) The date.

(c) The character and quantity of controlled substances involved.

The prescriber's record shall show the pathology and purpose for which the prescription is issued, or the controlled substance administered, prescribed, or dispensed.

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 1016

An act to amend Sections 6152 and 6153 of the Business and

Professions Code, relating to unlawful solicitation and procurement of business for attorneys.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 6152 of the Business and Professions Code is amended to read:

6152. (a) It is unlawful for:

(1) Any person, in his individual capacity or in his capacity as a public or private employee, or for any firm, corporation, partnership or association to act as a runner or capper for any such attorneys or to solicit any business for any such attorneys in and about the state prisons, county jails, city jails, city prisons, or other places of detention of persons, city receiving hospitals, city and county receiving hospitals, county hospitals, justice courts, municipal courts, superior courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever.

(2) Any person to solicit another person to commit or join in the commission of a violation of subdivision (a).

(b) A general release from a liability claim from any individual who is initially admitted to a medical facility for treatment of the injury alleged to have given rise to such claim is presumed fraudulent if executed within 15 days of such admission or prior to release from the facility, whichever occurs first.

(c) Nothing in this section shall be construed to prevent the recommendation of professional employment where such recommendation is not prohibited by the Rules of Professional Conduct of the State Bar of California.

(d) Nothing in this section shall be construed to mean that a public defender or assigned counsel may not make known his or her services as a criminal defense attorney to persons unable to afford legal counsel whether such persons are in custody or otherwise.

SEC. 2. Section 6153 of the Business and Professions Code is amended to read:

6153. Any person, firm, partnership, association, or corporation violating any of the provisions of this article is punishable by imprisonment in the county jail for not more than six months, or by fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment.

Any person employed either as an officer, director, trustee, clerk, servant or agent of this state or of any county or other municipal corporation or subdivision thereof, who is found guilty of violating

any of the provisions of this article, shall forfeit the right to his office and employment in addition to any other penalty provided in this article.

SEC. 3. Nothing in this act shall be construed to affect any prosecution commenced prior to January 1, 1977.

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 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 cost changes.

CHAPTER 1017

An act to amend Sections 124, 4453, 4453.1, 4460, 4702, and 5307.1 of, to add Section 139.6 to, and to add Chapter 2.5 (commencing with Section 5450) to Part 4 of Division 4 of, the Labor Code, relating to workers, and making an appropriation therefor.

[Approved by Governor September 19, 1976 Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 124 of the Labor Code is amended to read:

124. There is within the Division of Industrial Accidents a Disability Evaluation Bureau. The administrative director shall appoint a qualified specialist in the evaluation of permanent disability to serve as the chief of such bureau, and may appoint such assistant disability evaluation specialists as the work of the bureau may require. Those persons holding positions on the staff of the division's permanent disability rating bureau at the time of the effective date of this section shall be appointed and continue respectively as chief and assistant disability evaluation specialists under this section. The chief and the assistant disability evaluation specialists under his or her control and supervision shall:

(a) With the aid and advice of the medical director prepare such forms for approval by the administrative director as may be necessary or convenient for use of the division and of employees and employers, and those acting on their behalf, to facilitate and expedite the determination of the proper percentage of permanent disability, if any, for injuries under Division 4 (commencing with Section 3201) and Division 4.5 (commencing with Section 6100) of this code.

(b) Furnish to the administrative director, the appeals board, referees, and to employers and employees and those acting on their behalf, under such conditions as the administrative director may in rules and regulations prescribe, estimates of the percentages of permanent disability, if any, due under Article 3 (commencing with Section 4650), Chapter 2, Part 2, Division 4 of this code, either before or after the filing of an application under Chapter 3 (commencing with Section 5500), Part 4, Division 4 of this code.

(c) Include the formula used in computing the rating in every rating report, estimate, or recommendation prepared in writing.

(d) Perform such other functions as may be delegated to the Disability Evaluation Bureau by the administrative director.

SEC. 2. Section 139.6 is added to the Labor Code, to read:

139.6. The administrative director shall establish and effect within the Division of Industrial Accidents a continuing program to provide information and assistance concerning the rights, benefits, and obligations of the Workers' Compensation Law to employees and employers subject thereto.

SEC. 3. 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 two hundred thirty-one dollars ($231). In computing average annual earnings for purposes of permanent partial disability indemnity, except as provided in Section 4659, the average weekly earnings shall be taken at not less than forty-five dollars ($45) 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. 4. Section 4453.1 of the Labor Code is amended 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 two hundred thirty-one dollars ($231). 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. 5. Section 4460 of the Labor Code is amended to read:

4460. For the purpose of computing the temporary disability indemnity or permanent total disability indemnity payable to any employee who sustains an original injury causing temporary disability or permanent total disability, the maximum average weekly earnings shall be taken at two hundred thirty-one dollars ($231). For the purpose of computing the permanent partial disability indemnity payable to any employee who sustains an original injury causing permanent partial disability, the maximum average weekly earnings shall be taken at one hundred five dollars ($105).

Every computation made pursuant to this section as last amended shall be made only with reference to temporary disability or such permanent disability resulting from an original injury sustained after the act last amending this section becomes effective; provided, however, that all rights presently existing under this section shall be continued in force.

SEC. 6. Section 4702 of the Labor Code is amended to read:

4702. Except as provided in the next paragraph, the death benefit in cases of total dependency, when added to all accrued disability indemnity, shall be the sum of fifty thousand dollars ($50,000) except in the case of a surviving widow and one or more dependent minor children, in which case the death benefit shall be fifty-five thousand

dollars ($55,000) and except as otherwise provided in Sections 4553 and 4554. In cases of partial dependency the death benefit shall be a sum equal to four times the amount annually devoted to the support of the dependents by the employee, not to exceed the sum of fifty thousand dollars ($50,000). The death benefit in all cases shall be paid in installments in the same manner and amounts as temporary disability indemnity, payments to be made at least twice each calendar month, unless the appeals board otherwise orders.

Disability indemnity shall not be deducted from the death benefit and shall be paid in addition to the death benefit when the original injury resulting in death occurs after the effective date of the amendment to this section adopted at the 1949 Regular Session of the Legislature.

Every computation made pursuant to this section shall be made only with reference to death resulting from an original injury sustained after this section as amended during the 1971 Regular Session of the Legislature becomes effective; provided, however, that all rights presently existing under this section shall be continued in force.

SEC. 7. Section 5307.1 of the Labor Code is amended to read:

5307.1. The administrative director, after public hearings, shall adopt and revise, no less frequently than biannually, an official medical fee schedule which shall be prima facie evidence of the reasonableness of fees charged for medical services provided pursuant to this division.

Nothing in this section shall prohibit a medical provider from charging an employer or carrier fees in excess of those set forth on the official medical fee schedule, when reasonable, and accompanied by itemization and explanation; provided, however, that in no event shall a physician charge in excess of his or her usual fee.

In the event of a dispute between the physician and the employer or carrier concerning the medical fees charged, the physician may be allowed a reasonable fee for testimony, if a physician testifies pursuant to the employer's or carrier's subpoena, and the referee determines that the medical fee charged was reasonable.

The official medical fee schedule shall not apply to the costs and expenses authorized under Section 4600 to prove a claim.

SEC. 8. Chapter 2.5 (commencing with Section 5450) is added to Part 4 of Division 4 of the Labor Code, to read:

CHAPTER 2.5. ADMINISTRATIVE ASSISTANCE

5450. The Division of Industrial Accidents shall make available to employees, employers and other interested parties information, assistance, and advice to assure the proper and timely furnishing of

benefits and to assist in the resolution of disputes on an informal basis.

5451. Any party may consult with, or seek the advice of, an information and assistance officer within the Division of Industrial Accidents as designated by the administrative director. If no application is filed, the information and assistance officer shall consider the contentions of the parties and may refer the matter to the appropriate bureau or unit within the Division of Industrial Accidents for review and recommendations. The information and assistance officer shall advise the employer and the employee of their rights, benefits, and obligations under this division. Upon making such a referral, the information and assistance officer shall arrange for a copy of any pertinent material submitted to be served upon the parties or their representatives, if any. The procedures to be followed by the information and assistance officer shall be governed by the rules and regulations of the administrative director adopted after public hearings.

5452. If the matter is referred to the Medical Bureau for review, the bureau may require an employee to undergo a medical examination. The bureau shall prepare a report containing its findings and recommendations, copies of which shall be furnished to the parties or their representatives, if any. No fee shall be charged by the Division of Industrial Accidents for any services authorized by this chapter except that if the Medical Bureau refers the employee to an independent medical examiner for examination and report, any party may agree to pay the cost of such examinations. Referrals to the independent medical examiner shall be governed by the rules and regulations adopted by the administrative director after public hearings.

5453. After consideration of the information submitted, including the reports of any bureau or unit within the Division of Industrial Accidents which have been received, the information and assistance officer shall make a recommendation which shall be served on the parties or their representatives, if any.

5454. Submission of any matter to an information and assistance officer of the Division of Industrial Accidents shall toll any applicable statute of limitations for the period that such matter is under consideration by the information and assistance officer, and for 60 days following the issuance of his or her recommendation.

5455. Nothing in this chapter shall prohibit any party from filing an application for benefits under this division. In any proceeding pursuant to such application, the admissibility of written evidence or reports submitted by any party pursuant to this chapter, or Section 5502, shall be governed by the provisions of Chapter 5 (commencing with Section 5700) of this part.

SEC. 9. The sum of three million seven hundred twenty thousand five hundred dollars ($3,720,500) 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 1018

An act to amend Sections 2815 and 21100 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 2815 of the Vehicle Code is amended to read:

2815. Any person who shall disregard any traffic signal or direction given by a nonstudent school crossing guard, appointed pursuant to Section 21100, or authorized by any city police department, any board of supervisors of a county, or the Department of the California Highway Patrol, when he is wearing the official insignia of such a school crossing guard, and when in the course of his duties he is protecting any person in crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety, shall be guilty of a misdemeanor and subject to the penalties provided in Section 42001.

SEC. 2. Section 21100 of the Vehicle Code is amended to read:

21100. Local authorities may adopt rules and regulations by ordinance or resolution regarding the following matters:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire.

(c) Regulating traffic by means of traffic officers.

(d) Regulating traffic by means of semaphores or other official traffic control devices.

(e) Regulating traffic by means of any person given temporary appointment for such duty by the local authority whenever official traffic control devices are disabled or otherwise inoperable.

(f) Regulating traffic at the site of road or street construction or maintenance by persons authorized for such duty by the local authority.

(g) Licensing and regulating the operation of tow car service.

(h) Operation of bicycles, and, as specified in Section 21114.5,

electric carts by physically disabled persons, or persons 50 years of age or older, on the public sidewalks.

(i) Providing for the appointment of nonstudent school crossing guards for the protection of persons who are crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety.

No person shall, however, be appointed pursuant to subdivision (e) unless and until the local authority has submitted to the commissioner or to the chief law enforcement officer exercising jurisdiction in the enforcement of traffic laws within the area in which such person is to perform such duty, for review, a proposed program of instruction for the training of a person for such duty, and unless and until the commissioner or such other chief law enforcement officer approves the proposed program. The commissioner or such other chief law enforcement officer shall approve such a proposed program if he reasonably determines that the program will provide sufficient training for persons assigned to perform the duty described in subdivision (e).

SEC. 3. Section 21100 of the Vehicle Code is amended to read:

21100. Local authorities may adopt rules and regulations by ordinance or resolution regarding the following matters:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire.

(c) Regulating traffic by means of traffic officers.

(d) Regulating traffic by means of semaphores or other official traffic control devices.

(e) Regulating traffic by means of any person given temporary appointment for such duty by the local authority whenever official traffic control devices are disabled or otherwise inoperable.

(f) Regulating traffic at the site of road or street construction or maintenance by persons authorized for such duty by the local authority.

(g) Licensing and regulating the operation of tow car service.

(h) Operation of bicycles, and, as specified in Section 21114.5, electric carts by physically disabled persons, or persons 50 years of age or older, on the public sidewalks.

(i) Providing for the appointment of nonstudent school crossing guards for the protection of persons who are crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety.

(j) Regulating the methods of deposit of garbage and refuse in streets and highways for collection by the local authority or by any person authorized by the local authority.

No person shall, however, be appointed pursuant to subdivision

(e) unless and until the local authority has submitted to the commissioner or to the chief law enforcement officer exercising jurisdiction in the enforcement of traffic laws within the area in which such person is to perform such duty, for review, a proposed program of instruction for the training of a person for such duty, and unless and until the commissioner or such other chief law enforcement officer approves the proposed program. The commissioner or such other chief law enforcement officer shall approve such a proposed program if he reasonably determines that the program will provide sufficient training for persons assigned to perform the duty described in subdivision (e).

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 1664 are both chaptered and become effective January 1, 1977, both bills amend Section 21100 of the Vehicle Code, and this bill is chaptered after Assembly Bill No. 1664, that the amendments to Section 21100 proposed by both bills be given effect and incorporated in Section 21100 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Assembly Bill No. 1664 are both chaptered and become effective January 1, 1977, both amend Section 21100, and this bill is chaptered after Assembly Bill No. 1664, in which case Section 2 of this act shall not become operative.

CHAPTER 1019

An act to amend Sections 2463 and 9053 of, and to add Article 2.5 (commencing with Section 5700) to Chapter 2 of Part 1 of Division 6 of, the Fish and Game Code, relating to fish and game.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 2463 of the Fish and Game Code is amended to read:

2463. This article shall remain in effect only until July 1, 1977, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1977, deletes or extends such date.

SEC. 2. Article 2.5 (commencing with Section 5700) is added to Chapter 2 of Part 1 of Division 6 of the Fish and Game Code, to read:

Article 2.5. Purification of Mollusks

5700. Notwithstanding Sections 5670, 5672, 8341, and 9050, native

and nonnative mollusks may be taken in Districts 12 and 13 and moved to other areas to be purified for human consumption under such rules and regulations as shall be established by the commission. Such regulations may include, but are not limited to, bag limits, methods of harvest, and provisions for public use. Mollusks taken under this section shall not be used for human consumption unless such use is approved by the State Department of Health.

5701. The State Department of Health may make sanitary surveys of mollusk-growing areas or may use sanitary surveys of mollusk-growing areas made by qualified state or county agencies, and based on such information may classify such areas for purposes of harvesting and moving mollusks which are to be purified for human consumption in accordance with Section 5700. The State Department of Health shall adopt such rules and regulations as are necessary to implement this section.

5702. Any person who moves any native mollusks taken under regulations of the commission from Districts 12 and 13 for purposes of purification for human consumption shall pay a royalty, as the commission may prescribe, of not less than two cents ($0.02) per pound of mollusks so taken.

SEC. 3. Section 9053 of the Fish and Game Code, is amended to read:

9053. Powered equipment of such design as may be prescribed by the commission may be used to take crustaceans and mollusks under a revocable permit issued by the department and under such regulations as the commission shall prescribe. Taking under this section is subject to Sections 8250 to 8283, inclusive.

CHAPTER 1020

An act relating to animals, and making an appropriation therefor.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) Depredation by feral dogs is damaging to both the wildlife resource and the livestock industry in this state.

(b) The population of, and the problems associated with, feral dogs, is increasing at a rapid rate.

(c) No comprehensive statewide analysis on feral dogs has been completed to date.

(d) An immediate, comprehensive assessment of the status of the feral dog problem in this state is necessary to assist the Legislature in determining what measures should be undertaken to protect native wildlife and domestic livestock from feral dogs.

SEC. 2. The Department of Fish and Game shall study the feral dog problem in this state. The study shall include, but is not limited to:

(a) The assessment, description, and documentation of feral dog depredation on native wildlife and domestic livestock;

(b) The examination of the adequacy of existing laws and control programs;

(c) The suggestion of the solutions presently available; and

(d) Recommendations of legislation, if appropriate, and control programs.

The department shall consult with the Department of Food and Agriculture, the United States Fish and Wildlife Service, and other appropriate agencies, and report its findings and recommendations to the Legislature, not later than January 3, 1977.

SEC. 3. There is hereby appropriated from the General Fund in the State Treasury the sum of twenty thousand dollars ($20,000) to the Department of Fish and Game for purposes of carrying out the provisions of this act.

CHAPTER 1021

An act to amend Section 23824 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 23824 of the Business and Professions Code is amended to read:

23824. Limitations provided by Section 23816 on the number of licensed premises shall not apply to premises owned by the State of California, any incorporated city, county, city and county, airport district, or other district or public corporation of the State of California or to premises leased to any county, so long as any such premises are operated as a bona fide public eating place, provided, however, that civic auditoriums owned by any incorporated city, county, city and county, or other district or any premises leased to any county or city for use as a civic auditorium and directly operated by a public entity shall be subject to the limitations provided by

Section 23816 but shall not be required to be operated as a bona fide public eating place. Such civic auditorium shall further not be subject to the provisions of Section 23793.

Licenses issued on premises owned by the state, incorporated city, county, city and county, airport district, or other district or public corporation of the State of California, or issued on premises leased to any county or city, shall be renewable as set forth in Section 24048.1 or 24048.3. Such licenses shall be excluded from the number of premises used in determining application of the limitations provided by this article. Such licenses shall be subject to the provisions of Section 23954.5 and shall be only transferable from person to person at the same premises. Prior to the issuance of such licenses, the governmental agency owning or the county leasing such premises shall file with the department a written request that the license be issued and a written statement setting forth the reasons why issuance of the license would be in the public interest.

A written request filed with the department by the governmental agency owning or the county leasing premises used as a civic auditorium and directly operated as a public entity that the license be issued need not contain a written statement setting forth the reasons why issuance of the license would be in the public interest.

Funds derived from fees collected pursuant to the amendments made to this section at the 1975–76 Regular Session of the Legislature shall be deposited in the General Fund.

CHAPTER 1022

An act to amend Section 20810.5 of the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 20810.5 of the Government Code is amended to read:

20810.5. An employee of a student body organization, which is not a contracting agency, who becomes a member of the classified service of a school district pursuant to Section 25531.8 of the Education Code, shall receive service credit under the contract of the county superintendent of schools within whose jurisdiction the school district lies, or under such individual district contract as may be applicable, for the time during which he was employed by the

student body organization as if he had been employed by the school district during such time unless such service is credited in another publicly supported retirement system.

Service so credited shall be credited as current service or prior service, or both, as it would be credited if the member had been an employee of the school district throughout the time of the service so credited.

The county superintendent of schools or superintendent of schools of an independently contracting district shall draw a requisition against the funds of the school district for an amount equal to the total employer and employee contributions which would have been requisitioned under Section 20585 had such service been rendered in the employ of the school district and the employer and member rates and compensation on the date of transfer had been in effect throughout the period of service credited, and transmit such amount in accordance with Section 20585.

The governing board may at its discretion establish a method of recovering a portion of, or the total liability for, the amount so requisitioned.

The amount recovered from the member for such service so credited shall be deducted from the amount transmitted and credited to the member's account.

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 new duties, obligations, or responsibilities imposed on local government 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 this act will be in effect prior to the next school year, this act must take effect immediately.

CHAPTER 1023

An act to amend Sections 12250, 12251, and 12252 of, and to repeal Sections 12253 and 12256 of, the Water Code, relating to recreation on the Feather River, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1976 Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 12250 of the Water Code is amended to read:

12250. The department is authorized to construct a recreation project in the vicinity of the City of Oroville along the Feather River. Recreation projects which may be considered, in accordance with the project environmental impact report, include, but are not limited to: a swimming area or facility near Bedrock Park, including sanitary and convenience facilities and channel modification, renovation of salmon-spawning riffles in conjunction with a swimming facility, and development of a parkway project and wildlife area.

SEC. 2. Section 12251 of the Water Code is amended to read:

12251. In order to construct the recreation project authorized pursuant to Section 12250, the department may exercise any of the powers conferred upon it by the provisions of Part 3 (commencing with Section 11100) of this division.

SEC. 3. Section 12252 of the Water Code is amended to read:

12252. Construction of the recreation project authorized pursuant to Section 12250 shall be contingent upon a favorable environmental impact determination, and upon the execution of an agreement with a local public agency under which such public agency agrees to fund any construction costs exceeding one million two hundred thousand dollars ($1,200,000), and agrees to pay all costs of maintaining the project.

SEC. 4. Section 12253 of the Water Code is repealed.

SEC. 5. Section 12256 of the Water Code is repealed.

SEC. 6. An amount equal to the amount which reverted to the Bagley Conservation Fund on July 1, 1976, from the appropriations made in Items 350(rr) and 350.5 of the Budget Act of 1973 (Chapter 129 of the Statutes of 1973) is hereby appropriated, notwithstanding the provisions of Section 316, Chapter 1, Statutes of 1971, First Extraordinary Session, from the Bagley Conservation Fund, to the Department of Water Resources to construct a recreation project as authorized pursuant to Section 12250 of the Water Code, as amended by Section 1 of this act, and shall be available for expenditure until June 30, 1979.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The funding required for this project is the minimum necessary to construct a recreation project pursuant to Section 12250 of the Water Code as amended by this act. Further impending escalations in construction costs due to pressing inflation would place the cost of the project beyond the amount of funds which are made available for the project by this act. Therefore, it is critical that construction begin without delay.

CHAPTER 1024

An act to add Section 1388 to the Penal Code, relating to criminal actions.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 1388 is added to the Penal Code, to read:

1388. (a) In any case where an order for the dismissal of a felony action is made, as provided in this chapter, and where the defendant had been released on his own recognizance for that action, if the prosecutor files another accusatory pleading against the same defendant for the same offense, unless the defendant is present in court at the time of refiling, the district attorney shall send a letter to the defendant at his last known place of residence, and shall send a copy to the attorney of record, stating that the case has been refiled, and setting forth the date, time and place for rearraignment.

(b) If the defendant fails to appear for arraignment as stated, or at such time, date, and place as has been subsequently agreed to by defendant's counsel and the district attorney, then the court shall issue and have delivered for execution a warrant for his arrest within 20 days after his failure to appear.

(c) If the defendant was released on his own recognizance on the original charge, he shall, if he appears as provided in subdivisions (a) and (b), be released on his own recognizance on the refiled charge unless it is shown that changed conditions require a different disposition, in which case bail shall be set at the discretion of the judge.

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, and 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 1025

An act to amend Section 17503 of the Education Code, relating to public schools.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 17503 of the Education Code is amended to read:

17503. For purposes of this section:

(a) "Salaries of classroom teachers" and "teacher" shall have the same meanings as prescribed by Section 17200 of this code provided, however, that the cost of all health and welfare benefits provided to the teachers by the school district shall be included within the meaning of salaries of classroom teachers.

(b) "Current expense of education" means expenditures for certificated salaries other than certificated salaries for pupil transportation, food services, and community services; classified salaries other than classified salaries for pupil transportation, food services, and community services; employee benefits other than employee benefits for pupil transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for pupil transportation and food services; and community services, contracted services, and other operating expenses other than for pupil transportation, food services, and community services. "Current expense of education," for purposes of this section shall not include expenditures classified as sites, buildings, books, and media and new equipment (object of expenditure 6000 of the California School Accounting Manual), the amount expended from categorical aid received from the federal or state government which funds were granted for expenditures in a program not incurring any teacher salary expenditures or requiring disbursement of the funds without regard to the requirements of this section, or expenditures for facility acquisition and construction.

There shall be expended during each fiscal year for payment of salaries of classroom teachers:

(a) By an elementary school district, sixty percent (60%) of the district's current expense of education.

(b) By a high school district, fifty percent (50%) of the district's current expense of education.

(c) By a community college district, fifty percent (50%) of the district's current expense of education.

(d) By a unified school district, fifty-five percent (55%) of the district's current expense of education.

If the Superintendent of Public Instruction determines that a school district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom teachers during the preceding fiscal year, he shall, in apportionments made to the school district from the State School Fund after April 15 of the current fiscal year, designate an amount of such apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount so designated by the Superintendent of Public Instruction shall be deposited in the county treasury to the credit of the school district, but shall be unavailable for expenditure by the district pending the determination to be made by the Superintendent of Public Instruction on any application

for exemption which may be submitted to the Superintendent of Public Instruction. In the event it appears to the governing board of a school district that the application of the preceding paragraphs of this section during a fiscal year results in serious hardship to the district, or in the payment of salaries of classroom teachers in excess of the salaries of classroom teachers paid by other districts of comparable type and functioning under comparable conditions, the board may, with the written approval of the county superintendent of schools having jurisdiction over the district apply to the Superintendent of Public Instruction in writing not later than September 15th of the succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section for the fiscal year on account of which the application is made. Upon receipt of such application, duly approved, the Superintendent of Public Instruction shall grant the district exemption for any amount that is less than one thousand dollars ($1,000), and if the amount is one thousand dollars ($1,000), or greater may grant the district exemption, to the extent deemed necessary by him, from such requirements for the fiscal year on account of which the application is made. If such exemption is granted the designated moneys shall be immediately available for expenditure by the school district governing board. If no application for exemption is made or exemption is denied, the Superintendent of Public Instruction shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year.

The Superintendent of Public Instruction shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end. He may require the submission to him, during the school year, by school district governing boards and county superintendents of schools, of such reports and information as may be necessary to carry out the provisions of this section.

SEC. 2. Section 17503 of the Education Code is amended to read:

17503. For purposes of this section:

(a) "Salaries of classroom teachers" and "teacher" shall have the same meanings as prescribed by Section 17200 of this code provided, however, that the cost of all health and welfare benefits provided to the teachers by the school district shall be included within the meaning of salaries of classroom teachers.

(b) "Current expense of education" means the gross total expended (not reduced by estimated income or estimated federal and state apportionments) for the purposes classified in the final budget of a school district (except one which, during the preceding fiscal year, had less than 101 units of average daily attendance) submitted to and approved by the county superintendent of schools pursuant to Section 20607 of this code for certificated salaries other than certificated salaries for pupil transportation, food services, and community services; classified salaries other than classified salaries for pupil transportation, food services, and community services;

employee benefits other than employee benefits for pupil transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for pupil transportation and food services; and community services, contracted services, and other operating expenses other than for pupil transportation, food services, and community services. "Current expense of education," for purposes of this section shall not include those expenditures classified as sites, buildings, books, and media and new equipment (object of expenditure 6000 of the California School Accounting Manual), the amount expended from categorical aid received from the federal or state government which funds were granted for expenditures in a program not incurring any teacher salary expenditures or requiring disbursement of the funds without regard to the requirements of this section, or expenditures for facility acquisition and construction; and shall not include the amount expended pursuant to any lease agreement for plant and equipment or the amount expended from funds received from the federal government pursuant to the "Economic Opportunity Act of 1964" or any extension of such act of Congress or the amount expended by a community college from state or federal funds received by the community college for grants to community college students or for the employment of community college students.

There shall be expended during each fiscal year for payment of salaries of classroom teachers:

(a) By an elementary school district, sixty percent (60%) of the district's current expense of education.

(b) By a high school district, fifty percent (50%) of the district's current expense of education.

(c) By a community college district, fifty percent (50%) of the district's current expense of education.

(d) By a unified school district, fifty-five percent (55%) of the district's current expense of education.

If the Superintendent of Public Instruction determines that a school district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom teachers during the preceding fiscal year, he shall, in apportionments made to the school district from the State School Fund after April 15 of the current fiscal year, designate an amount of such apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount so designated by the Superintendent of Public Instruction shall be deposited in the county treasury to the credit of the school district but shall be unavailable for expenditure by the district pending the determination to be made by the Superintendent of Public Instruction on any application for exemption which may be submitted to the Superintendent of Public Instruction. In the event it appears to the governing board of a school district that the application of the preceding paragraphs of this section during a fiscal year results in serious hardship to the district or in the payment of salaries of classroom teachers in excess

of the salaries of classroom teachers paid by other districts of comparable type and functioning under comparable conditions, the board may, with the written approval of the county superintendent of schools having jurisdiction over the district apply to the Superintendent of Public Instruction in writing not later than September 15th of the succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section for the fiscal year on account of which the application is made. Upon receipt of such application, duly approved, the Superintendent of Public Instruction shall grant the district exemption for any amount that is less than one thousand dollars ($1,000), and if the amount is one thousand dollars ($1,000), or greater may grant the district exemption, to the extent deemed necessary by him, from such requirements for the fiscal year on account of which the application is made. If such exemption is granted the designated moneys shall be immediately available for expenditure by the school district governing board. If no application for exemption is made or exemption is denied, the Superintendent of Public Instruction shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year.

The Superintendent of Public Instruction shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end. He may require the submission to him, during the school year, by school district governing boards and county superintendents of schools, of such reports and information as may be necessary to carry out the provisions of this section.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 3030 are both chaptered and become effective January 1, 1977, both bills amend Section 17503 of the Education Code, and this bill is chaptered after Assembly Bill No. 3030, that the amendments to Section 17503 proposed by both bills be given effect and incorporated in Section 17503 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. 3030 are both chaptered and become effective January 1, 1977, both amend Section 17503, and this bill is chaptered after Assembly Bill No. 3030, in which case Section 1 of this act shall not become operative.

SEC. 4. Sections 1 and 2 of this act shall become operative on July 1, 1977.

CHAPTER 1026

An act to amend Sections 8300, 8306, and 8307 of, to add Sections 8307.5 and 8307.6 to, and to add and repeal Section 8305.8 of, the Fish and Game Code, and to amend Sections 8300.5, 8306.1, 8306.2, 8306.3, 8306.4, 8306.8, and 8306.9 of the Fish and Game Code, as added by

Assembly Bill No. 2224 of the 1975–76 Regular Session, relating to abalone.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 8300 of the Fish and Game Code is amended to read:

8300. Pink abalones (Haliotis corrugata), red abalones (Haliotis rufescens), black abalones (Haliotis crakerodie), and green abalones (Haliotis fulgens) shall not be taken during the months of February and August.

This section shall be inoperative until January 1, 1981.

SEC. 2. Section 8300.5 of the Fish and Game Code, as added by Assembly Bill No. 2224, as enacted at the 1975–76 Regular Session, is amended to read:

8300.5. Notwithstanding Section 8300, no species of abalone (genus Haliotis) shall be taken during the months of February and August.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date.

SEC. 3. Section 8305.8 is added to the Fish and Game Code, to read:

8305.8. Notwithstanding any other provision of law, in the mainland coastal waters from Palos Verdes Point in Los Angeles County to Dana Point in Orange County, it is unlawful to take abalone for commercial purposes.

This section shall remain in effect only until March 1, 1982, and as of that date is repealed, unless a later enacted statute, which is chaptered before March 1, 1982, deletes or extends such date.

SEC. 4. Section 8306 of the Fish and Game Code is amended to read:

8306. Abalones may not be taken for commercial purposes except under a revocable permit issued by the department under such regulations as the commission shall prescribe. The permit fee is one hundred dollars ($100).

Diving apparatus may be used to take abalones in water not less than 20 feet in depth in those portions of District 20 lying on the southerly side of Catalina Island between Southeast Rock and China Point, and in Districts 18, 19, and 20A, and in District 10 only in the waters lying south of Point Lobos. It is unlawful to take black abalones for commercial purposes, along the mainland coast, except as otherwise specifically authorized by this article.

The department shall file an annual report with the Legislature not later than the fifth calendar day of each session of the Legislature on the use made of the revenue received in accordance with

provisions of this section.

This section shall be inoperative until January 1, 1981.

SEC. 5. Section 8306.1 of the Fish and Game Code, as added by Assembly Bill No. 2224, as enacted at the 1975–76 Regular Session, is amended to read:

8306.1. Effective January 1, 1977, no abalone diving permit shall be issued to any person who did not possess an abalone diving permit during the previous abalone season and does not meet the requirements of Section 8306.4.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date.

SEC. 6. Section 8306.2 of the Fish and Game Code, as added by Assembly Bill No. 2224, as enacted at the 1975–76 Regular Session, is amended to read:

8306.2. Notwithstanding the provisions of Section 8306.1, the department, under such regulations as the commission shall prescribe, shall conduct annually a drawing for any applicants not qualifying for an abalone diving permit under Section 8306.1. The total number of abalone diving permits issued under this section shall be 5 percent of the total abalone diving permits issued by the department the previous year. An applicant shall be eligible for the drawing if he qualifies under one of the following conditions:

(a) At least three years experience as an abalone diver or crewmember with a permit issued in accordance with Section 8306.

(b) Successfully have passed a proficiency test administered by the department, under such regulations as the commission shall prescribe.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date.

SEC. 7. Section 8306.3 of the Fish and Game Code, as added by Assembly Bill No. 2224, as enacted at the 1975–76 Regular Session, is amended to read:

8306.3. At such time as the total number of abalone diving permits issued by the department under provisions of Sections 8306.1 and 8306.2 is reduced to 200, or in any event no later than January 1, 1981, the commission shall establish the number of abalone diving permits to be issued by the department. No permits shall be issued by the department to those who did not possess an abalone diving permit the previous year and meet the requirements of Section 8306.4 except that, if the number of abalone diving permits is below the number established by the commission, the department shall issue permits by drawing, under such regulations as the commission shall prescribe. An applicant shall be eligible for such drawing if he qualifies under either of the following conditions:

(a) At least three years experience as an abalone diver or crewmember with a permit issued in accordance with Section 8306.

(b) Has successfully passed a proficiency test administered by the

department, under such regulations as the commission shall prescribe.

If the number of abalone diving permits is above the number established by the commission, the department shall determine eligibility by drawing.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date.

SEC. 8. Section 8306.4 of the Fish and Game Code, as added by Assembly Bill No. 2224, as enacted at the 1975–76 Regular Session, is amended to read:

8306.4. An abalone diving permittee who, during the preceding season, does not land at least 10,000 pounds of abalone or make 20 landings for each of which a receipt was received as provided in Section 8011, shall not be issued a permit the following year. The person so affected by this section may appeal to the commission, submitting the circumstances surrounding the nonuse of the permit, and request issuance of a diving permit. The commission may issue a permit if it finds the nonuse of the permit was for reasons beyond the control of the applicant under the circumstances.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date.

SEC. 9. Section 8306.8 of the Fish and Game Code, as added by Assembly Bill No. 2224, as enacted at the 1975–76 Regular Session, is amended to read:

8306.8. Notwithstanding Section 8306, abalones may not be taken for commercial purposes except under a revocable abalone diving or crewmember permit issued by the department under such regulations as the commission shall prescribe. The diving permit fee is two hundred dollars ($200). The crewmember permit fee is one hundred dollars ($100).

Diving apparatus may be used to take abalones in water not less than 20 feet in depth in those portions of District 20 lying on the southerly side of Catalina Island between Southeast Rock and China Point, and in Districts 18, 19, and 20A, and in District 10 only in the waters lying south of Point Lobos. It is unlawful to take black abalones for commercial purposes, along the mainland coast, except as otherwise specifically authorized by this article.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date.

SEC. 10. Section 8306.9 of the Fish and Game Code, as added by Assembly Bill No. 2224, as enacted at the 1975–76 Regular Session, is amended to read:

8306.9. The Legislature finds and declares that the restrictions on the issuance of abalone diving permits specified in this article, are necessary to insure that abalone diving permittees possess the level of experience needed to protect and enhance the state's abalone resources.

02880 285595 139

This section shall remain in effect until January 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date.

SEC. 11. Section 8307 of the Fish and Game Code is amended to read:

8307. In District 19, within one mile of the shores of Santa Rosa, Santa Barbara, San Nicolas, San Clemente, and San Miguel Islands, black abalones may be taken during the season for lobsters as defined in Section 8251 for use as bait in lobster traps.

Abalones so taken may not be brought to the mainland or to Santa Catalina Island at any time.

There is no bag limit on black abalone so taken, but no black abalone shall be taken under this section the shell of which measures less than 5½ inches in greatest diameter.

SEC. 12. Section 3807.5 is added to the Fish and Game Code, to read:

8307.5. (a) It is unlawful for any person to take black abalone for any purpose within one mile of Santa Cruz Island.

(b) It is unlawful for any person to possess black abalone on any boat within one mile of Santa Cruz Island, except at the southerly side of the island in the area between a line running due south magnetic from Morse Point and a line running due east magnetic from San Pedro Point, or except when going to, coming from, or taking refuge from weather in Prisoners Harbor.

SEC. 13. Section 8307.6 is added to the Fish and Game Code, to read:

8307.6. (a) It is unlawful for any person to take black abalone for any purpose within one mile of Anacapa Island.

(b) It is unlawful for any person to possess black abalone on any boat within one mile of Anacapa Island, except when going to, coming from, or taking refuge from weather in Frenchies Harbor or at anchorages near Cat Rock and East Fish Camp.

SEC. 14. Sections 1, 2, 4, 5, 6, 7, 8, 9, and 10 of this act shall become operative only if Assembly Bill No. 2224 of the 1975–76 Regular Session is chaptered and becomes operative.

CHAPTER 1027

An act to add Sections 20936, 20937, and 31655 to the Government Code, relating to retirement systems.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 20936 is added to the Government Code, to read:

20936. "Public service" also means time during which an employee of a contracting agency was absent from service with any contracting agency on war relocation leave.

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

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

SEC. 2. Section 20937 is added to the Government Code, to read:

20937. A contracting agency may elect to refund all or a portion of the employer contributions that were made by members or retired persons in order to receive credit for war relocation leave. The refund shall be a charge against the agency's current service reserve account. The refund may be made only to such a member or retired person or the spouse of such persons and only during the 12 months following the date that this section is made applicable to the employees of a contracting agency.

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

SEC. 3. Section 31655 is added to the Government Code, to read:

31655. Any member may receive credit for war relocation absence if the member elects to pay and does pay prior to retirement into the retirement fund an amount equal to the contributions the member would have made to the fund on the member's compensation earnable at the time of the absence together with regular interest thereon.

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

02887 285635 147

This section shall not be operative in any county until adopted by resolution of the board of supervisors.

SEC. 4. Any retired person, or the surviving spouse of a retired person, who paid the contributions which the state would have made on his behalf in order to receive credit for war relocation leave pursuant to subdivision (h) of Section 20930 of the Government Code shall receive a refund of such employer contributions if an application is made to the Public Employees' Retirement System prior to July 1, 1977.

CHAPTER 1028

An act to amend Sections 630, 640, 645, 646, and 1240 of, and to add Section 645.3 to, the Probate Code, relating to probate.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 630 of the Probate Code is amended to read:

630. When a decedent leaves no real property, nor interest therein nor lien thereon, in this state, and the total value of the decedent's property in this state, excluding any motor vehicle of which the decedent is the owner or legal owner, over and above any amounts due to the decedent for services in the armed forces of the United States, and over and above the amount of salary not exceeding three thousand dollars ($3,000), including compensation for unused vacation, owing to decedent for services from any employment, does not exceed twenty thousand dollars ($20,000), the surviving spouse, the children, lawful issue of deceased children, a parent, brothers or sisters of the decedent, the lawful issue of a deceased brother or sister, or the conservator of the property of any person bearing such relationship to the decedent, or the guardian of the estate of any minor or insane or incompetent person bearing such relationship to the decedent, or the trustee named under a trust agreement executed by the decedent during his lifetime, the primary beneficiaries of which bear such relationship to the decedent, if such person or persons has or have a right to succeed to the property of the decedent, or is the sole beneficiary or are all of the beneficiaries under the last will and testament of the decedent, may, without procuring letters of administration, or awaiting the probate of the will, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness or right transferred to such person or persons upon furnishing the person, representative, corporation, officer or body owing the money, having custody of such property or acting as

registrar or transfer agent of such evidences of interest, indebtedness or right, with an affidavit or declaration under penalty of perjury showing the right of the person or persons to receive such money or property, or to have such evidences transferred.

SEC. 2. Section 640 of the Probate Code is amended to read:

640. If the decedent leaves a surviving spouse or minor child or minor children, and the net value of the whole estate, over and above all liens and encumbrances at the date of death and over and above the value of any homestead interest set apart out of decedent's estate under Section 660 or Section 661 of this code, does not exceed the sum of twenty thousand dollars ($20,000), the same may be set aside to the surviving spouse, if there be one, and if there be none, then to the minor child or minor children of the decedent.

SEC. 3. Section 645 of the Probate Code is amended to read:

645. If, upon the hearing of any petition provided for by this article, the court finds that the net value of the estate over and above all liens and encumbrances at the date of death of the decedent and over and above the value of any homestead interest set apart out of decedent's estate under Section 660 or Section 661 of this code, does not exceed the sum of twenty thousand dollars ($20,000), as of the date of such death, and that the expenses of the last illness, funeral charges and expenses of administration have been paid, it shall, by decree for that purpose, assign to the surviving spouse of the decedent, if there be a surviving spouse, provided said surviving spouse shall not have theretofore remarried, or, if there be no surviving spouse, then to such child or children of the decedent as may then be minors, if any, the whole of the estate, subject to whatever mortgages, liens or encumbrances there may be upon said estate at the time of the death of the decedent. The title thereto shall vest absolutely in such surviving spouse, or if there be no such surviving spouse, the minor child or children subject to whatever mortgages, liens or encumbrances there may be upon said estate at the time of the death of the decedent, and there must be no further proceedings in the administration, unless further estate be discovered.

SEC. 4. Section 645.3 is added to the Probate Code, to read:

645.3. A surviving spouse or a minor child or children in whom title has vested pursuant to Section 645 shall be personally liable for the unsecured debts of the decedent. The personal liability shall not exceed the value of the estate at the date of death, less the amount of any liens and encumbrances and any homestead and other property set apart pursuant to Section 660 or Section 661. Such personal liability shall cease one year after title to the estate vests, except with respect to any actions or proceedings then pending in court. In any action based upon such an unsecured debt, the surviving spouse, or the minor child or children, or the guardian of such minor child or children, may assert any defenses, counterclaims, or setoffs which would have been available to the decedent if the decedent had not died.

SEC. 5. Section 646 of the Probate Code is amended to read:

646. If the court finds that the net value of the estate exceeds twenty thousand dollars ($20,000), or that there is neither a surviving spouse nor a minor child, it shall act upon the petition for probate or for letters of administration in the same manner as though no petition to set aside the estate had been included, and the estate shall then be administered in the usual manner.

SEC. 6. Section 1240 of the Probate Code is amended to read:

1240. An appeal may be taken from an order granting or revoking letters testamentary or of administration; removing or refusing to remove a trustee of a testamentary trust; admitting a will to probate or revoking the probate thereof; setting aside an estate claimed not to exceed twenty thousand dollars ($20,000) in value; setting apart property as a homestead or claimed to be exempt from execution confirming a report of an appraiser or appraisers in setting apart a homestead; granting or modifying a family allowance; directing or authorizing the sale or conveyance or confirming the sale of property; adjudicating the merits of any claim under Sections 851.5, 852 or 853; allocating debts of under Section 980; settling an account of an executor or administrator or trustee, or instructing or appointing a trustee; instructing or directing an executor or administrator; directing or allowing the payment of a debt, claim, legacy or attorney's fee; fixing, directing or allowing payment of a trustee's compensation; determining heirship or the persons to whom distribution should be made or trust property should pass; distributing property; determining that property is community property passing or belonging to the surviving spouse pursuant to Section 655; refusing to make any order heretofore mentioned in this section; fixing an inheritance tax or determining that none is due; or authorizing a personal representative to invest or reinvest any surplus moneys pursuant to Section 584.5.

CHAPTER 1029

An act to add Section 96.3 to the Labor Code, relating to collective bargaining representatives.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 96.3 is added to the Labor Code, to read:

96.3. In cases where employees are covered by a collective bargaining agreement, the collective bargaining representative by virtue of such agreement may be the assignee of all such covered employees for purposes of filing claims for wages with the Labor Commissioner, subject to the option of the employee to reject such

representation and to represent himself or herself.

CHAPTER 1030

An act to add Section 1952.8 to the Civil Code, and to amend and renumber Section 39068.6 of, and to add Sections 41955, 41956, 41957, 41958, 41959, 41960, and 41961 to, the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 1952.8 is added to the Civil Code, to read:

1952.8. On and after the effective date of this section, no owner of a gasoline service station shall enter into a lease with any person for the leasing of the station for the purpose of operating a gasoline service station, unless (a) the station is equipped with a vapor control system for the control of gasoline vapor emissions during gasoline marketing operations, including storage, transport, and transfer operations, if such vapor control system is required by law or by any rule or regulation of the State Air Resources Board or of the air pollution control district in which the station is located or (b) no vapor control system has been certified by the board prior to the date of the lease.

A lease entered into in violation of this section shall be voidable at the option of the lessee.

SEC. 2. Section 39068.6 of the Health and Safety Code is amended and renumbered to read:

41954. (a) The state board shall, by March 1, 1976, adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage, transport, and transfer operations, with performance standards which the state board determines are reasonable and necessary to achieve or maintain any applicable ambient air quality standard.

(b) The state board shall certify any gasoline vapor control system upon its determination that the system, if properly installed and maintained, will meet the requirements enumerated in subdivision (a). The state board shall specify the specifications used for issuing such certification. After the state board has certified such a system, if circumstances beyond the control of the state board cause the system to no longer meet the specified certification specifications, the state board may, as appropriate, revoke or modify its prior certification.

(c) The state board may test, or contract for the testing of,

gasoline vapor control systems in order to certify such systems.

(d) The state board may charge a reasonable fee for certification, not to exceed the state board's estimated costs therefor. Payment of such fee may be made a condition of certification.

(e) On or after July 1, 1976, no person shall install a gasoline vapor control system unless it has been certified by the state board.

(f) To the extent authorized by other provisions of law, any district may adopt stricter procedures and performance standards than those adopted by the state board pursuant to subdivision (a).

SEC. 3. Section 41955 is added to the Health and Safety Code, to read:

41955. Prior to state board certification of a gasoline vapor control system pursuant to Section 41954, the manufacturer of the system shall submit the system to, or, if appropriate, the components of the system as requested by, the Division of Measurement Standards of the Department of Food and Agriculture and the State Fire Marshal for their certification.

SEC. 4. Section 41956 is added to the Health and Safety Code, to read:

41956. As soon as possible after the effective date of this section, the State Fire Marshal and the Division of Measurement Standards, after consulting with the state board, shall adopt rules and regulations for the certification of gasoline vapor control systems and components thereof.

The State Fire Marshal shall be the only agency responsible for determining whether any component or system creates a fire hazard. The division shall be the only agency responsible for the measurement accuracy aspects of any component or system.

SEC. 5. Section 41957 is added to the Health and Safety Code, to read:

41957. The Division of Industrial Safety of the Department of Industrial Relations shall be the only agency responsible for determining whether any gasoline vapor control system, or component thereof, creates a safety hazard other than a fire hazard.

If the division determines that a system, or component thereof, creates a safety hazard other than a fire hazard, that system or component may not be used until the division has certified that the system or component, as the case may be, does not create such a hazard.

The division, in consultation with the state board, shall adopt the necessary rules and regulations for such certification if such certification is required.

SEC. 6. Section 41958 is added to the Health and Safety Code, to read:

41958. To the maximum extent practicable, the rules and regulations adopted pursuant to Sections 41956 and 41957 shall allow flexibility in the design of gasoline vapor control systems and their components. The rules and regulations shall set forth the performance standards as to safety and measurement accuracy and

the minimum procedures to be followed in testing the system or component for compliance with the performance standards.

The State Fire Marshal, the Division of Industrial Safety, and the Division of Measurement Standards shall certify any system or component which complies with their adopted rules and regulations. Any one of the state agencies may certify a system or component on the basis of results of tests performed by any entity retained by the manufacturer of the system or component or by the state agency. The requirements for the certification of a system or component shall not require that it be tested, approved, or listed by any private entity.

SEC. 7. Section 41959 is added to the Health and Safety Code, to read:

41959. Certification testing of gasoline vapor control systems and their components by the state board, the State Fire Marshal, the Division of Measurement Standards, and the Division of Industrial Safety may be conducted simultaneously.

SEC. 8. Section 41960 is added to the Health and Safety Code, to read:

41960. Certification of a gasoline vapor recovery system for safety and measurement accuracy by the State Fire Marshal and the Division of Measurement Standards and, if necessary, by the Division of Industrial Safety shall permit its installation wherever required in the state, if the system is also certified by the state board.

Except as otherwise provided in subdivision (f) of Section 41954, no local or regional authority shall prohibit the installation of a certified system without obtaining concurrence from the state agency responsible for the aspects of the system which the local or regional authority disapproves.

SEC. 9. Section 41961 is added to the Health and Safety Code, to read:

41961. The State Fire Marshal, the Division of Measurement Standards, and the Division of Industrial Safety may charge a reasonable fee for certification of a gasoline vapor control system or a component thereof, not to exceed their respective estimated costs therefor. Payment of the fee may be made a condition of certification.

SEC. 10. 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.

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:

In order to avoid unnecessary litigation involving whether the lessor or the lessee of a gasoline service station is responsible for the installation of required gasoline vapor control systems, and in order to ensure that air pollution control districts do not require the installation of systems that are faulty or constitute fire or other safety hazards, it is necessary that this act take effect immediately.

CHAPTER 1031

An act to add Chapter 1.5 (commencing with Section 29090) to Division 21 of the Education Code, relating to law schools.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Chapter 1.5 (commencing with Section 29090) is added to Division 21 of the Education Code, to read:

CHAPTER 1.5. UNACCREDITED LAW SCHOOLS

29090. Any law school that is not accredited by the examining committee of the State Bar shall provide every student with a disclosure statement, subsequent to the payment of any application fee but prior to the payment of any registration fee, containing the following information:

(a) The school is not accredited. However, in addition, if the school has been approved by other agencies, that fact may be so stated.

(b) Where the school has not been in operation for 10 years, the assets and liabilities of the school. However, if the school has had prior affiliation with another school that has been in operation more than 10 years, has been under the control of another school that has been in operation more than 10 years, or has been a successor to a school in operation more than 10 years, the requirements of this subdivision shall not be applicable.

(c) The number and percentage of students who have taken and who have passed the first-year law student's examination and the final bar examination in the previous five years, or since the establishment of the school, whichever is less, which will include only those students who have been certified by the school to take the examinations. This subdivision shall not apply to correspondence schools.

(d) The number of legal volumes in the library. This subdivision shall not apply to correspondence schools.

(e) The educational background, qualifications and experience of the faculty, to include whether or not the faculty members and

administrators (e.g., the dean) are members of the California State Bar.

(f) The ratio of faculty to students for the previous five years or since the establishment of the school, whichever is less. This subdivision shall not apply to correspondence schools.

(g) Whether or not the school has applied for accreditation, and if so, the date of application and whether or not that application has been withdrawn, is currently pending, or has been finally denied. The school need only disclose information relating to applications made in the previous five years.

(h) That the education provided by the school may not satisfy requirements of other states for the practice of law. Applicants should inquire regarding such requirements, if any, to the state in which they may wish to practice.

The disclosure statement required by this section shall be signed by each student, who will receive as a receipt a copy of his signed disclosure statement. If any school does not comply with these requirements, it shall make a full refund of all fees paid by students.

29091. A law school not accredited by the examining committee of the State Bar may refer to itself as a university or part of a university, and if it so refers to itself, shall state whether or not the law school is associated with an undergraduate school.

29093. (a) The Superintendent of Public Instruction and the Attorney General shall take cognizance of the fact that both have definite duties and responsibilities under the provisions of this article.

(b) The Superintendent of Public Instruction shall report any information concerning possible violations of this article to the Attorney General.

(c) The Attorney General shall make such investigations as are necessary to determine whether or not there has been compliance with the provisions of this article.

29094. The Attorney General is hereby authorized to take such actions as are necessary, including the obtaining of injunctive relief, to enforce the provisions of this article.

CHAPTER 1032

An act to amend Section 12406 of the Education Code, relating to pupils.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 12406 of the Education Code is amended to read:

12406. Any person arresting or assuming temporary custody of a minor pursuant to Section 12405 shall forthwith deliver the minor either to the parent, guardian, or other person having control, or charge of the minor, or to the school from which the minor is absent, or to a nonsecure youth service or community center designated by the school or district for counseling prior to returning such minor to his home or school, or to a school counselor or pupil services and attendance officer located at a police station for the purpose of obtaining immediate counseling from the counselor or officer prior to returning or being returned to his home or school, or, if the minor is found to have been declared an habitual truant, he shall cause the minor to be brought before the probation officer of the county having jurisdiction over minors.

CHAPTER 1033

An act to add Sections 777, 10009, 12822, and 16481 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 777 is added to the Public Utilities Code, to read:

777. (a) Where utility service is provided to residential users through a master meter, the public utility shall make every good faith effort to inform the actual users of the utility services when the account is in arrears that service will be terminated in 10 days. The notice shall further inform the actual users that they have the right to become utility customers without being required to pay the amount due on the account.

(b) The public utility shall not be obligated to make service available unless and until each and every actual user of the utility system then residing on the premises shall agree to the terms and conditions of service, and shall meet the requirements of the public utility's rules and tariffs, provided, however, that if (1) one or more actual users are willing and able to assume responsibility for the entire account to the satisfaction of the public utility, or if (2) there is a physical means, legally available to the public utility, of selectively terminating service to those actual users who have not met the requirements of the public utility's rules and tariffs, the public utility shall make service available to the actual users who have met those requirements.

(c) Where prior service for a period of time is a condition for

establishing credit by the serving utility, residency and proof of prompt payment of rent for such period of time shall be a satisfactory equivalent.

(d) Any actual user of utility services who becomes a utility customer pursuant to this section whose periodic payments, such as rental payments, include the costs of utility services, where such costs are not separately stated, may deduct from his payment each payment period all such reasonable charges paid to the utility for utility services during the preceding payment period.

SEC. 2. Section 10009 is added to the Public Utilities Code, to read:

10009. (a) Where utility service is provided to residential users through a master meter, the public utility shall make every good faith effort to inform the actual users of the utility services when the account is in arrears that service will be terminated in 10 days. The notice shall further inform the actual users that they have the right to become utility customers without being required to pay the amount due on the account.

(b) The public utility shall not be obligated to make service available unless and until each and every actual user of the utility system then residing on the premises shall agree to the terms and conditions of service, and shall meet the requirements of the public utility's rules and tariffs, provided, however, that if (1) one or more actual users are willing and able to assume responsibility for the entire account to the satisfaction of the public utility, or if (2) there is a physical means, legally available to the public utility, of selectively terminating service to those actual users who have not met the requirements of the public utility's rules and tariffs, the public utility shall make service available to the actual users who have met those requirements.

(c) Where prior service for a period of time is a condition for establishing credit by the serving utility, residency and proof of prompt payment of rent for such period of time shall be a satisfactory equivalent.

(d) Any actual user of utility services who becomes a utility customer pursuant to this section whose periodic payments, such as rental payments, include the costs of utility services, where such costs are not separately stated, may deduct from his payment each payment period all such reasonable charges paid to the utility for utility services during the preceding payment period.

SEC. 3. Section 12822 is added to the Public Utilities Code, to read:

12822. (a) Where utility service is provided to residential users through a master meter, the municipal utility district shall make every good faith effort to inform the actual users of the utility services when the account is in arrears that service will be terminated in 10 days. The notice shall further inform the actual users that they have the right to become utility customers without being required to pay the amount due on the account.

(b) The municipal utility district shall not be obligated to make service available unless and until each and every actual user of the utility system then residing on the premises shall agree to the terms and conditions of service, and shall meet the requirements of the municipal utility district's rules and tariffs, provided, however, that if (1) one or more actual users are willing and able to assume responsibility for the entire account to the satisfaction of the municipal utility district, or if (2) there is a physical means, legally available to the municipal utility district, of selectively terminating service to those actual users who have not met the requirements of the municipal utility district's rules and tariffs, the municipal utility district shall make service available to the actual users who have met those requirements.

(c) Where prior service for a period of time is a condition for establishing credit by the serving utility, residency and proof of prompt payment of rent for such period of time shall be a satisfactory equivalent.

(d) Any actual user of utility services who becomes a utility customer pursuant to this section whose periodic payments, such as rental payments, include the costs of utility services, where such costs are not separately stated, may deduct from his payment each payment period all such reasonable charges paid to the utility for utility services during the preceding payment period.

SEC. 4. Section 16481 is added to the Public Utilities Code, to read:

16481. (a) Where utility service is provided to residential users through a master meter, the public utility district shall make every good faith effort to inform the actual users of the utility services when the account is in arrears that service will be terminated in 10 days. The notice shall further inform the actual users that they have the right to become utility customers without being required to pay the amount due on the account.

(b) The public utility district shall not be obligated to make service available unless and until each and every actual user of the utility system then residing on the premises shall agree to the terms and conditions of service, and shall meet the requirements of the public utility district's rules and tariffs, provided, however, that if (1) one or more actual users are willing and able to assume responsibility for the entire account to the satisfaction of the public utility district, or if (2) there is a physical means, legally available to the public utility district, of selectively terminating service to those actual users who have not met the requirements of the public utility district's rules and tariffs, the public utility district shall make service available to the actual users who have met those requirements.

(c) Where prior service for a period of time is a condition for establishing credit by the serving utility, residency and proof of prompt payment of rent for such period of time shall be a satisfactory equivalent.

(d) Any actual user of utility services who becomes a utility

customer pursuant to this section whose periodic payments, such as rental payments, include the costs of utility services, where such costs are not separately stated, may deduct from his payment each payment period all such reasonable charges paid to the utility for utility services during the preceding period.

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 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.

Further, any costs incurred under this act are of the nature that are normally recoverable under the regular fees and charges by such enterprises, local agencies, and proprietary agencies affected by this act.

CHAPTER 1034

An act to add Section 6103.9 to the Government Code, and to amend Section 11476 of the Welfare and Institutions Code, relating to child support.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 6103.9 is added to the Government Code, to read:

6103.9. Notwithstanding any other provision of law, the district attorney shall be exempt from the payment of any fees or costs, including fees for service of process and filing fees, in any action or proceeding brought for the establishment or enforcement of a child support obligation.

SEC. 2. Section 11476 of the Welfare and Institutions Code is amended to read:

11476. It shall be the duty of the county department to refer all cases where a parent is absent from the home, or where the parents are unmarried and parentage has not been determined by a court of competent jurisdiction, to the district attorney immediately at the time the application for assistance, or certificate of eligibility, is signed by the applicant or recipient. If an applicant is found to be ineligible, such applicant shall be notified in writing that the referral of case to the district attorney may be terminated at such applicant's request. The county department shall cooperate with the district attorney and shall make available to him all pertinent information as provided in Section 11478.

Upon referral from the county department, the district attorney

shall investigate the question of nonsupport or paternity and shall take all steps necessary to obtain support for the needy child and determine paternity in the case of a child born out of wedlock. Upon the advice of the county department that a child is being considered for adoption, the district attorney shall delay the investigation and other actions with respect to the case until advised that the adoption is no longer under consideration. The granting of aid to an applicant shall not be delayed or contingent upon investigation by the district attorney.

Where a court order has been obtained, any contractual agreement for support between the district attorney or the county department and the noncustodial parent shall be deemed null and void to the extent that it is not consistent with the court order.

Whenever a family which has been receiving aid to families with dependent children ceases to receive assistance, the district attorney shall:

(1) Continue to enforce support payments from the noncustodial parent for a period not to exceed three months from the month following the month in which such family ceased to receive assistance and pay all amounts so collected to the family; and

(2) At the end of such three-month period, if after written notice to the individual, the district attorney is requested to do so by the individual on whose behalf the enforcement efforts will be made, continue to enforce such support payments from the noncustodial parent.

The district attorney shall, where appropriate, utilize reciprocal arrangements adopted with other states in securing support from an absent parent for any child. In individual cases where utilization of reciprocal arrangements has proven ineffective, the district attorney may forward to the Attorney General a request to utilize federal courts in order to obtain or enforce orders for child support. If reasonable efforts to collect amounts assigned pursuant to Welfare and Institutions Code Section 11477 have failed, the district attorney may forward a certified copy of such court order to the Attorney General with a request that the case be forwarded to the Treasury Department for collection. The Attorney General, where appropriate shall forward such requests to the Secretary of Health, Education, and Welfare, or his designated representative.

CHAPTER 1035

An act to amend Sections 11007, 11054, 11055, 11056, 11057, and 11058 of, and to add Section 11150.5 to, the Health and Safety Code, relating to drugs.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 11007 of the Health and Safety Code is amended to read:

11007. (a) Except for the purposes of Chapter 4 (commencing with Section 11150) of this division, "controlled substance" means a drug, substance, or immediate precursor which are included in Schedules I through V, inclusive, pursuant to Chapter 2 (commencing with Section 11053).

(b) As used in Chapter 4 (commencing with Section 11150) of this division and any provisions of this division specifying penalties for offenses defined in Chapter 4 (commencing with Section 11150), except for those offenses which are punishable under Section 11371, "controlled substance" means any drug, substance, or immediate precursor which is included in one of the five schedules contained in the Federal Controlled Substances Act (Title II, P.L. 91-513), as such schedules may be revised from time to time to add, delete, or transfer substances from one schedule to another, whether by congressional enactment or by administrative rule of the United States Attorney General adopted pursuant to Section 201 of such act. Whenever reference is made in Chapter 4 (commencing with Section 11150) of this division to a controlled substance classified in a particular schedule, the reference shall be deemed to be to a federal controlled substance classified in the designated federal schedule, as such schedules may be so revised from time to time.

SEC. 2. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) Except for purposes of Chapter 4 (commencing with Section 11150) of this division, the controlled substances listed in this section are included in Schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacetylmethadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Dextrorphan.
(14) Diampromide.
(15) Diethylthiambutene.

(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.
(40) Properidine.
(41) Propiran.
(42) Racemoramide.
(43) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Etorphine.
(10) Heroin.
(11) Hydromorphinol.
(12) Methyldesorphine.
(13) Methyldihydromorphine.
(14) Morphine methylbromide.
(15) Morphine methylsulfonate.
(16) Morphine-N-oxide.
(17) Myrophine.

(18) Nicocodeine.
(19) Nicomorphine.
(20) Normorphine.
(21) Phoclodine.
(22) Thebacon.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.
(2) 5-methoxy-3,4-methylenedioxy amphetamine.
(3) 3,4,5-trimethoxy amphetamine.
(4) Bufotenine.
(5) Diethyltryptamine.
(6) Dimethyltryptamine.
(7) 4-methyl-2,5-dimethoxylamphetamine.
(8) Ibogaine.
(9) Lysergic acid diethylamide.
(10) Marijuana.
(11) Mescaline.
(12) Peyote.
(13) N-ethyl-3-piperidyl benzilate.
(14) N-methyl-3-piperidyl benzilate.
(15) Psilocybin.
(16) Psilocyn.
(17) Tetrahydrocannabinols.

SEC. 2.5. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) Except for purposes of Chapter 4 (commencing with Section 11150) of this division, the controlled substances listed in this section are included in Schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacetylmethadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Dextrorphan.

(14) Diampromide.
(15) Diethylthiambutene.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.
(40) Properidine.
(41) Propiran.
(42) Racemoramide.
(43) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Etorphine.
(10) Heroin.
(11) Hydromorphinol.
(12) Methyldesorphine.
(13) Methyldihydromorphine.
(14) Morphine methylbromide.
(15) Morphine methylsulfonate.

(16) Morphine-N-oxide.
(17) Myrophine.
(18) Nicocodeine.
(19) Nicomorphine.
(20) Normorphine.
(21) Phoclodine.
(22) Thebacon.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.
(2) 5-methoxy-3,4-methylenedioxy amphetamine.
(3) 3,4,5-trimethoxy amphetamine.
(4) Bufotenine.
(5) Diethyltryptamine.
(6) Dimethyltryptamine.
(7) 4-methyl-2,5-dimethoxylamphetamine.
(8) Ibogaine.
(9) Lysergic acid diethylamide.
(10) Marijuana.
(11) Mescaline.
(12) Peyote.
(13) N-ethyl-3-piperidyl benzilate.
(14) N-methyl-3-piperidyl benzilate.
(15) Psilocybin.
(16) Psilocyn.
(17) Tetrahydrocannabinols.
(18) 4-bromo-2,5 dimethoxyamphetamine.
(19) 4-methoxyamphetamine.
(20) 5-dimethoxyamphetamine.

SEC. 3. Section 11055 of the Health and Safety Code is amended to read:

11055. (a) Except for purposes of Chapter 4 (commencing with Section 11150) of this division, the controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl- 14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

(i) Raw opium.
(ii) Opium extracts.
(iii) Opium fluid extracts.

(iv) Powdered opium.
(v) Granulated opium.
(vi) Tincture of opium.
(vii) Apomorphine.
(viii) Codeine.
(ix) Ethylmorphine.
(x) Hydrocodone.
(xi) Hydromorphone.
(xii) Metopon.
(xiii) Morphine.
(xiv) Oxycodone.
(xv) Oxymorphone.
(xvi) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Alphaprodine.
(2) Anileridine.
(3) Bezitramide.
(4) Dihydrocodeine.
(5) Diphenoxylate.
(6) Fentanyl.
(7) Isomethadone.
(8) Levomethorphon.
(9) Levorphanol.
(10) Metazocine.
(11) Methadone.
(12) Methadone—intermediate, 4-cyano-2-dimethyl-amino-4,4-diphenyl butane.
(13) Moramide—intermediate, 2-methyl-3-morpho-lino-1,1-diphenyl-propane-carboxylic acid.
(14) Pethidine.
(15) Pethidine—intermediate—A, 4-cyano-1-methyl-4-phenyl-piperidine.
(16) Pethidine—intermediate—B, ethyl-4-phenylpi-peridine-4-carboxylate.
(17) Pethidine—intermediate—C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.

(18) Phenazocine.
(19) Piminodine.
(20) Racemethorphan.
(21) Racemorphan.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Phenmetrazine and its salts.

(3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(4) Methylphenidate.

SEC. 4. Section 11056 of the Health and Safety Code is amended to read:

11056. (a) Except for purposes of Chapter 4 (commencing with Section 11150) of this division, the controlled substances listed in this section are included in Schedule III.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.

(2) Chlorhexadol.
(3) Glutethimide.
(4) Lysergic acid.
(5) Lysergic acid amide.
(6) Methaqualone and its salts.
(7) Methyprylon.
(8) Phencyclidine.
(9) Sulfondiethylmethane.
(10) Sulfonethylmethane.
(11) Sulfonmethane.

(c) Nalorphine.

(d) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage

unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

SEC. 4.5. Section 11056 of the Health and Safety Code is amended to read:

11056. (a) Except for purposes of Chapter 4 (commencing with Section 11150) of this division, the controlled substances listed in this section are included in Schedule III.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.

(2) Chlorhexadol.

(3) Glutethimide.

(4) Lysergic acid.

(5) Lysergic acid amide.

(6) Methaqualone and its salts.

(7) Methyprylon.

(8) Phencyclidine.

(9) Sulfondiethylmethane.

(10) Sulfonethylmethane.

(11) Sulfonmethane.

(12) Pentazoline.

(c) Nalorphine.

(d) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine, or any of its salts, per 100

milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

SEC. 5. Section 11057 of the Health and Safety Code is amended to read:

11057. (a) Except for purposes of Chapter 4 (commencing with Section 11150) of this division, the controlled substances listed in this section are included in Schedule IV.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Barbital.
(2) Chloral betaine.
(3) Chloral hydrate.
(4) Ethchlorvynol.
(5) Ethinamate.
(6) Methohexital.
(7) Meprobamate.
(8) Methylphenobarbital.
(9) Paraldehyde.
(10) Petrichloral.
(11) Phenobarbital.

SEC. 5.5. Section 11057 of the Health and Safety Code is amended to read:

11057. (a) Except for purposes of Chapter 4 (commencing with Section 11150) of this division, the controlled substances listed in this section are included in Schedule IV.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Barbital.
(2) Chloral betaine.
(3) Chloral hydrate.
(4) Ethchlorvynol.
(5) Ethinamate.
(6) Methohexital.
(7) Meprobamate.
(8) Methylphenobarbital.
(9) Paraldehyde.
(10) Petrichloral.
(11) Phenobarbital.
(12) Diazepam.
(13) Chlordiazepoxide.

SEC. 6. Section 11058 of the Health and Safety Code is amended to read:

11058. (a) Except for purposes of Chapter 4 (commencing with Section 11150) of this division, the controlled substances listed in this section are included in Schedule V.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atrophine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

SEC. 7. Section 11150.5 is added to the Health and Safety Code, to read:

11150.5. The provisions of this chapter shall be applicable to controlled substances subject to the Federal Controlled Substances Act (Title II, P.L. 91-513), as provided in subdivision (b) of Section 11007. References in this chapter to controlled substances classified

in a particular schedule shall be deemed to be a reference to the federal schedule of such number, rather than a reference to the schedules set forth in Chapter 2 (commencing with Section 11053) of this division.

SEC. 8. It is the intent of the Legislature, if this bill and Senate Bill No. 2092 are both chaptered and become effective January 1, 1977, both bills amend Sections 11054, 11056, and 11057 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 2092, that the amendments to Sections 11054, 11056, and 11057 proposed by both bills be given effect and incorporated in Sections 11054, 11056, and 11057 in the form set forth in Sections 2.5, 4.5, and 5.5 of this act. Therefore, Sections 2.5, 4.5, and 5.5 of this act shall become operative only if this bill and Senate Bill No. 2092 are both chaptered and become effective January 1, 1977, both amend Sections 11054, 11056, and 11057, and this bill is chaptered after Senate Bill No. 2092, in which case Sections 2, 4, and 5 of this act shall not become operative.

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 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 1036

An act to amend Sections 3710.1, 3710.2, 3711, 3712, 3713, 3717, 3718, 3720, 3721, 3722, 3725, 3726, and 3727 of, to add Sections 3716.1, 3716.2, and 3728 to, to repeal and add Section 3723 of, and to repeal Section 3724 of, the Labor Code, relating to workers' compensation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 3710.1 of the Labor Code is amended to read:

3710.1. Where an employer has failed to secure the payment of compensation as required by this article, the director or his designated agents shall issue a stop order prohibiting the use of the employee labor by such employer until the employer's compliance with the provisions of this article. Any employee so affected by such work stoppage shall be paid by the employer for such time lost, not

exceeding 10 days, pending compliance by the employer. Further, the employer, when penalties for noninsurance at the time of a compensable injury are not applicable, shall pay to the director, for deposit in the State Treasury to the credit of the Uninsured Employers Fund, the sum of one hundred dollars ($100) per employee as an additional penalty for being uninsured at the time such stop order is made by the director or his designated agent. An illegally uninsured employer against whom a claim for a compensable injury has been filed, if a finding is made that the injury is not compensable, shall nevertheless be charged, as a penalty for being illegally uninsured at the time of the claimed injury, the sum of one hundred dollars ($100) per employee employed at the time of the claimed injury, payable to the State Treasury to the credit of the Uninsured Employers Fund. The penalty limit under this section is ten thousand dollars ($10,000).

SEC. 2. Section 3710.2 of the Labor Code is amended to read:

3710.2. Failure of an employer to observe a stop order issued pursuant to Section 3710.1 is a misdemeanor and makes mandatory on the tribunal before whom the charge of violation of such stop order is tried the imposition of a sentence of imprisonment in the county jail for not less than 10 days and a fine of not less than three hundred dollars ($300). Fines shall be paid into the State Treasury to the credit of the Uninsured Employers Fund. The director or his designated agents may also obtain injunctive and other relief from the courts to carry out the purposes of Section 3710.1.

SEC. 3. Section 3711 of the Labor Code is amended to read:

3711. The Director of Industrial Relations or his designated agents may, at any time, require any employer to furnish a written statement showing the name of his insurer or the manner in which the employer has complied with the provisions of this article. Failure of the employer for a period of 10 days to furnish such written statement is prima facie evidence that he has failed or neglected in respect to the matters so required. The 10-day period shall not be construed to allow an uninsured employer, so found by the director or his designated agents, any extension of time from the application of the provisions of Section 3710.1. An insured employer who fails to respond to an inquiry respecting his status as to his workers' compensation security shall pay a penalty of fifty dollars ($50) to the director for deposit in the State Treasury to the credit of the Uninsured Employers Fund. In any prosecution under this article, the burden of proof is upon the defendant to show that he has secured the payment of compensation in one of the two ways set forth in this article.

SEC. 4. Section 3712 of the Labor Code is amended to read:

3712. The securing of the payment of compensation in a way provided in this division is essential to the functioning of the expressly declared social public policy of this state in the matter of worker's compensation; and the conduct or operation of any business or undertaking without full compensation security, in continuing

violation of such social policy, shall be subject to imposition of business strictures and monetary penalties by the Director of Industrial Relations, or his designated agents, including, but not limited to, resort to the superior court of any county in which all or some part of such business is being thus unlawfully conducted or operated, for carrying out the intent of this article. In a proceeding before the superior court in matters concerned with this article, no filing fee shall be charged to the plaintiff; nor may any charge or cost be imposed for any act or service required of or done by any state or county officer or employee in connection with such proceeding. No bond shall be required as a prerequisite to the granting of a restraining order. If the court or the judge before whom the order to show cause in such proceeding shall be made returnable, shall find that the defendant is conducting or operating a business or undertaking without the full compensation security required, he shall forthwith, and without continuance, issue an order restraining the future or further conduct and operation of such business or undertaking so long as such violation of social public policy shall continue. Such action may be prosecuted by the Attorney General of California, the district attorney of the county in which suit is brought, the city attorney of any city in which such a business or undertaking is being operated or conducted without full compensation security, or any attorney possessing civil service status who is an employee of the Department of Industrial Relations who may be designated by the director for such purpose. No finding made in the course of any such action shall be binding on the appeals board in any subsequent proceeding before it for benefits under this division.

SEC. 5. Section 3713 of the Labor Code is amended to read:

3713. (a) 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.

(b) If the employer is insured by a compensation insurance carrier, the employer shall, in addition to the notice required by subdivision (a), post in the same place a notice showing the expiration date of the current coverage. The employer shall also post with the notice the telephone number of the nearest office of the Labor Commissioner, together with an invitation for any employee to call such number to report the expiration of the employer's coverage.

(c) Failure to keep any notice required by this section conspicuously posted shall constitute a misdemeanor, and shall be prima facie evidence of noninsurance.

SEC. 6. Section 3716.1 is added to the Labor Code, to read:

3716.1. In any hearing, investigation or proceeding, the Attorney General, or, with the Attorney General's permission, attorneys of the department, shall represent the director and the state. Expenses incident to representation of the director and the state, before the appeals board and in civil court, by the Attorney General or Department of Industrial Relations attorneys, shall be reimbursed from funds appropriated to the Uninsured Employers Fund; however, the injured claimant shall have first priority to be paid from such funds.

The director, or his representative, shall assign investigative and claims' adjustment services respecting matters concerning uninsured employers injury cases. The director or his representative may make such service assignments within the department, or he may contract therefor with the State Compensation Insurance Fund, except insofar as such matters might conflict with the interests of the State Compensation Insurance Fund. The costs thereof shall be reimbursed from funds appropriated to the Uninsured Employers Fund.

SEC. 7. Section 3716.2 is added to the Labor Code, to read:

3716.2. Notwithstanding the precise elements of an award of compensation benefits, and notwithstanding the claim and demand for payment being made therefor to the Director of Industrial Relations, the director, as administrator of the Uninsured Employers Fund, shall pay the claimant only such benefits allowed, recognizing proper liens thereon, that would have accrued against an employer properly insured for workers' compensation liability. However, in civil suits by the director to enforce payment of an award, including procedures pursuant to Section 3717, the total amount of the award, including interest, other penalties and attorney fees granted by the award, shall be sought. Recovery, by the director, in a civil suit, or other means, of awarded benefits in excess of amounts paid the claimant by the Uninsured Employers Fund, shall be paid over to the injured employee, or his representative as the case may be.

SEC. 8. Section 3717 of the Labor Code is amended to read:

3717. A findings and award which is the subject of a demand on the Uninsured Employers Fund, shall constitute a liquidated claim for damages against an employer in the amount so ascertained and fixed by the appeals board, and the appeals board shall certify the same to the director who shall forthwith refer the matter to the Attorney General, to institute a civil action against such employer in the name of the director, as administrator of the Uninsured Employers Fund, for the collection of such award. In such action it shall be sufficient for plaintiff to set forth a copy of the record of proceedings of the appeals board relative to such claims as certified by the appeals board to the director and to state that there is due to plaintiff on account of such finding and award of the appeals board a specified sum which plaintiff claims with interest. Plaintiff shall be further entitled to costs and reasonable attorney fees. A certified copy of such record of proceedings in such claim shall be attached

to the complaint and constitutes prima facie evidence of the truth of the facts therein contained. The answer or demurrer to such complaint shall be filed within 10 days, the reply or demurrer to the answer within 20 days, and the demurrer to the reply within 30 days after the return day of the summons or service by publication. All motions and demurrer shall be submitted to the court within 10 days after the same are filed. As soon as the issues are made up in any such case, it shall be placed at the head of the trial docket and shall be first in order for trial.

SEC. 9. Section 3718 of the Labor Code is amended to read:

3718. The cause of action provided in Section 3717 and any cause of action arising out of Section 3722 may be joined in one action against an employer. The amount recovered in such action from such employer shall be paid into the State Treasury to the credit of the Uninsured Employers Fund.

SEC. 10. Section 3720 of the Labor Code is amended to read:

3720. When the appeals board determines under Section 3715 or 3716 that an employer has not secured the payment of compensation as required by this division, the director, or his representative, shall file for record in the office of the county recorder in the counties where such employer's property is located, a certificate prepared and furnished him by the appeals board showing the date that the employer was determined to be illegally uninsured. Such certificate shall show the name and address of the employer against whom it was filed, and the fact that the employer has not secured the payment of compensation as required by this division. Upon such recordation, such certificate constitutes a valid lien in favor of the Director of Industrial Relations, and shall have the same force, effect and priority as a judgment lien and shall continue for 10 years from the time of the recording of such certificate unless sooner released or otherwise discharged. A copy of such a certificate shall be served upon the employer by mail, by the director or his representative. A facsimile signature of the director accompanied by the seal imprint of the Department of Industrial Relations shall be sufficient for recording purposes of liens and releases or cancellations thereof considered herein. Certificates of liens may be filed in any or all counties of the state, depending upon the information the director obtains concerning the employer's assets.

SEC. 11. Section 3721 of the Labor Code is amended to read:

3721. The director shall provide the employer with a certificate of cancellation of lien after the employer has paid to the claimant or to the Uninsured Employers Fund the amount of the compensation or benefits which has been ordered paid to the claimant, or when the application has finally been denied after the claimant has exhausted the remedies provided by law in such cases, or when the employer has filed a bond in such amount and with such surety as the appeals board approves conditioned on the payment of all sums ordered paid to the claimant. The recorder shall make no charge for filing such certificates of lien, or for cancellation when liens are filed in error.

Cancellation of lien certificates provided to the employer may be filed for recordation by the employer at his expense.

SEC. 12. Section 3722 of the Labor Code is amended to read:

3722. If upon the filing of a claim for compensation under this division the appeals board finds that any employer has not secured the payment of compensation as required by this division, the appeals board shall so notify the Director of Industrial Relations and the employer, by mail. Within 10 days thereafter the employer shall pay, as a penalty, the sum of five hundred dollars ($500) for each employee in the employment of such employer on the date of injury subject to the claim filed against such illegally uninsured employer. The maximum amount of such penalty shall be ten thousand dollars ($10,000). The number of employees on the date considered herein shall be established by verified statement of the employer or by such other information as the director may obtain. Payment shall be transmitted to the director for deposit in the State Treasury to the credit of the Uninsured Employers Fund. The appeals board may provide for a summary hearing on the sole issue of compensation coverage to effect the provisions of this section.

SEC. 13. Section 3723 of the Labor Code is repealed.

SEC. 14. Section 3723 is added to the Labor Code, to read:

3723. If the employer has failed to submit a verified statement indicating the number of employees on the date of injury, or, having done so has failed to pay the penalty set forth in Section 3722, the director shall give written notice to the employer of the penalty assessment, using such information as he has regarding the number of employees. Such notice shall be mailed to the employer at his residence or usual place of business by registered or certified mail. The employer to whom the assessment is directed may file within 20 days after receipt thereof a petition in writing, verified under oath by the employer, or his authorized agent having knowledge of the facts, objecting to the assessment and setting forth the grounds for his objection. If no petition is filed with the director within the period set forth herein such assessment shall become conclusive and the amount thereof shall be due and payable from the employer so assessed to the director for deposit in the State Treasury to the credit of the Uninsured Employers Fund.

SEC. 15. Section 3724 of the Labor Code is repealed.

SEC. 16. Section 3725 of the Labor Code is amended to read:

3725. When a petition objecting to a penalty assessment is filed, the director shall assign a time and place for the hearing of the same and shall notify the petitioner thereof by registered or certified mail. When an employer files such a petition, the assessment made by the director shall become due and payable 10 days after notice of the finding made at the hearing has been sent by registered or certified mail to the party assessed. A writ of review may be taken from any such finding to the appropriate superior court upon the execution by the party assessed of a bond to the state in double the amount so found due and ordered paid by the director conditioned that the

party will pay any judgment and costs rendered against it for the assessment.

SEC. 17. Section 3726 of the Labor Code is amended to read:

3726. When no petition objecting to a penalty assessment is filed or when a finding is made affirming or modifying such an assessment after hearing, a certified copy of the assessment as affirmed or modified may be filed by the director in the office of the clerk of the superior court in any county in which the employer has property or in which the employer has a place of business. The clerk, immediately upon the filing of such assessment, shall enter a judgment for the state against the employer in the amount shown on the assessment. The judgment may be filed by the clerk in a looseleaf book entitled "Special Judgments for State Uninsured Employers Fund." Such judgment shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall make no charge for the service provided by this section to be performed by him.

SEC. 18. Section 3727 of the Labor Code is amended to read:

3727. If the director determines pursuant to Section 3722 that an employer has failed to secure the payment of compensation as required by this division, the director shall file with the county recorder of any counties in which such employer's property may be located his certificate of the amount of penalty due from such employer and such amount shall be a lien in favor of the director from the date of such filing against the real property and personal property of the employer within the county in which such certificate is filed. The recorder shall accept and file such certificate and record the same as a mortgage on real estate and shall file the same as a security interest and he shall index the same as mortgage on real estate and as a security interest. The recorder shall make no charge for the services provided by this section to be performed by him. Upon payment of the penalty assessment, the director shall issue a certificate of cancellation of penalty assessment, which may be recorded by the employer at his expense.

SEC. 19. Section 3728 is added to the Labor Code, to read:

3728. The director may draw from the State Treasury out of the appropriation made to the Uninsured Employers Fund for the purposes of Sections 3716 and 3716.1, without at the time presenting vouchers and itemized statements, a sum not to exceed in the aggregate seventy-five thousand dollars ($75,000), to be used as a cash revolving fund. The revolving fund shall be deposited in such banks and under such conditions as the Department of General Services determines. The Controller shall draw his warrants in favor of the Director of Industrial Relations for the amounts so withdrawn and the Treasurer shall pay such warrants.

Expenditures made from the revolving fund in payment of claims for compensation and for administrative and adjusting services rendered herein are exempted from the operation of Section 925.6

03471 286550 258

of the Government Code. Reimbursement of the revolving fund for such expenditures shall be made upon presentation to the Controller of an abstract or statement of such expenditures. Such abstract or statement shall be in such form as the Controller requires.

SEC. 20. At such time as the revenue to the General Fund for the purposes of subsequent injuries payments, as specified in Article 5 (commencing with Section 4750) of Chapter 2 of Part 2 of Division 4 of the Labor Code, exceeds the expenditures for such purposes, such surplus moneys will be transferred by the Controller to the Uninsured Employers Fund.

SEC. 21. The sum of two million dollars ($2,000,000) is hereby appropriated to the Uninsured Employers Fund from the General Fund for the payment of claims and the administration of the uninsured employers program. Such moneys shall be used first to pay off any indebtedness of, or claims against, the Uninsured Employers Fund which are in existence on the effective date of this act. No part of such moneys may be expended under this act until such existing indebtedness and claims are paid in full.

SEC. 22. The Director of Industrial Relations shall report to the Governor and the Legislature, not later than January 1 of each year, the amount necessary to maintain the solvency of the Uninsured Employers Fund.

SEC. 23. 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 Uninsured Employers Fund is insolvent, with outstanding claims exceeding the revenue which can reasonably be expected under existing statutes.

In order to provide compensation for injured employees of illegally uninsured employers as provided for in the statutes, and to provide for sufficient revenue to permit the Uninsured Employers Fund to become self-supporting as envisioned by the enabling legislation, and to provide a deterrent to those employers who would knowingly avoid their obligations, it is necessary that this act take effect immediately.

CHAPTER 1037

An act to amend Section 770 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976]

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

03496 286580 264

SECTION 1. Section 770 of the Public Utilities Code is amended to read:

770. The commission may after hearing:

(a) Ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed, and followed by all electrical, gas, water, and heat corporations.

(b) Ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage, or other condition pertaining to the supply of the product, commodity, or service furnished or rendered by any such public utility. No standard of the commission relating to water quality, however, shall be applicable to any water corporation which is required to comply with the regulations and standards of the State Department of Health pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

(c) Prescribe reasonable regulations for the examination and testing of such product, commodity, or service and for the measurement thereof.

(d) Establish reasonable rules, specifications, and standards to secure the accuracy of all meters and appliances for measurements. The commission shall require a public utility that estimates meter readings to so indicate on its billings, and shall require any such estimate which is incorrect to be corrected by the next billing period, except that for reasons beyond its control due to weather, or in cases of unusual conditions, corrections for any over- or underestimate shall be reflected on the first regularly scheduled bill and based on an actual reading following the period of inaccessibility.

(e) Provide for the examination and testing of any and all appliances used for the measurement of any product, commodity, or service of any such public utility.

SEC. 2. Section 770 of the Public Utilities Code is amended to read:

770. The commission may after hearing:

(a) Ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed, and followed by all electrical, gas, water, and heat corporations.

(b) Ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, or other condition pertaining to the supply of the product, commodity, or service furnished or rendered by any such public utility. No standard of the commission applicable to any water corporation shall be inconsistent with the regulations and standards of the State Department of Health pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

(c) Prescribe reasonable regulations for the examination and testing of such product, commodity, or service and for the measurement thereof.

(d) Establish reasonable rules, specifications, and standards to secure the accuracy of all meters and appliances for measurements. The commission shall require a public utility that estimates meter readings to so indicate on its billings, and shall require any such estimate which is incorrect to be corrected by the next billing period, except that for reasons beyond its control due to weather, or in cases of unusual conditions, corrections for any over- or underestimate shall be reflected on the first regularly scheduled bill and based on an actual reading following the period of inaccessibility.

(e) Provide for the examination and testing of any and all appliances used for the measurement of any product, commodity, or service of any such public utility.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 2078 are both chaptered and become effective January 1, 1977, both bills amend Section 770 of the Public Utilities Code, and this bill is chaptered after Senate Bill No. 2078, that the amendments to Section 770 proposed by both bills be given effect and incorporated in Section 770 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 2078 are both chaptered and become effective January 1, 1977, both amend Section 770, and this bill is chaptered after Senate Bill No. 2078, in which case Section 1 of this act shall not become operative.

CHAPTER 1038

An act to amend Sections 14868, 14901, and 14910 of the Government Code, relating to state publications, and making an appropriation therefor.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 14868 of the Government Code is amended to read:

14868. Charges for printing publications, including legislative printing, shall include the cost of printing and distributing copies thereof to libraries as required by Section 14901.

SEC. 2. Section 14901 of the Government Code, is amended to read:

14901. To the end that the policy specified in Section 14900 may be effectively carried out, the State Printer shall print a sufficient number of copies of each state publication as determined by the State Librarian in accordance with Sections 14901, 14903, 14904, 14905.1, and 14907, not to exceed three hundred fifty (350), unless the Department of General Services with the advice of the State

Librarian determines that a greater number is necessary in order to meet the requirements for deposit in a "library stockroom" (to be maintained by the State Printer for that purpose) for distribution to libraries as hereinafter provided, except that of legislative bills, daily journals, and daily or weekly histories, not more than one hundred fifty (150) copies shall be printed for such deposit and distribution, and of publications not printed by the State Printer, the department, commission or other agency concerned shall print one hundred (100) copies for such distribution. An additional two (2) copies of each state publication as selected by the State Archivist shall be printed and delivered to the State Archivist by the State Printer or the department, commission, or other agency concerned, and all remaining copies in excess of two (2) copies heretofore received shall be distributed to interested parties without charge or destroyed. The cost of printing, publishing, and distributing such copies shall be fixed and charged pursuant to Section 14866.

SEC. 3. Section 14910 of the Government Code is amended to read:

14910. To facilitate the distribution of state publications, the State Library shall issue monthly or quarterly a complete list of state publications issued during the immediately preceding month or quarter, such lists to be cumulated and printed at the end of each calendar year. All state departments, commissions and other agencies shall, upon request, supply information to the State Library for the preparation of the monthly or quarterly lists and the annual cumulative lists.

SEC. 4. The sum of forty-one thousand dollars ($41,000) is hereby appropriated from the General Fund to the State Library for the purposes of this act.

SEC. 5. This act shall become operative on July 1, 1977.

CHAPTER 1039

An act to amend Section 1607 of the Health and Safety Code, relating to blood.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 1607 of the Health and Safety Code is amended to read:

1607. Notwithstanding any other provision of law, licensed clinical laboratory bioanalysts, licensed clinical laboratory technologists, registered clinical laboratory technologist trainees, licensed vocational nurses, and registered nurses may perform skin puncture and venipuncture for the purposes of collecting human

whole blood, provided that (1) such acts are performed in a blood bank licensed pursuant to this chapter, and (2) the acts are performed under the direct and responsible supervision of a licensed physician and surgeon. The licensing and registration referred to in this section shall be licensing and registration pursuant to the Business and Professions Code.

Nothing in this chapter shall prohibit the collection of blood at a state institution or other establishment, under conditions established and acceptable to the department, by the personnel of the institution.

CHAPTER 1040

An act to amend Section 23 of the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970), relating to the settlement of titles to tide and submerged lands in the Humboldt Bay area.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. As used in this act:

(a) "Arcata" means the City of Arcata.

(b) "Arcata tidelands" means those certain tide and submerged lands, or interests therein, owned or held by Arcata, including those conveyed to Arcata by Chapter 344 of the Statutes of 1913 and Chapter 542 of the Statutes of 1917.

(c) "Commission" means the State Lands Commission.

(d) "District" means the Humboldt Bay Harbor, Recreation, and Conservation District.

(e) "District tidelands" means those certain tide and submerged lands, or interests therein, owned or held by the district, including those conveyed to the district by, or pursuant to, the Humboldt Bay Harbor, Recreation, and Conservation District Act.

(f) "Humboldt Bay Harbor, Recreation, and Conservation District Act" means Chapter 1283 of the Statutes of 1970, as amended.

SEC. 2. The commission shall, from time to time, upon the application of, and with the approval of, Arcata as to Arcata tidelands, or the district as to district tidelands, determine which of such lands have been filled, improved, and reclaimed, in connection with the development of such areas, and are no longer in fact tidelands or submerged lands, and are no longer available, useful, or necessary for public commerce, navigation, and fishing, and shall execute and record in the official records of the County of Humboldt certificates describing such lands and the findings and determinations of the commission. Upon the recordation of such certificates, the lands

03562 28730 282

described therein shall thereupon be free of the public trust for commerce, navigation, and fishery.

SEC. 3. (a) With the approval of the commission and upon the receipt of such consideration as is authorized in this act, Arcata as to Arcata tidelands, or the district as to district tidelands, may from time to time convey any portions of, or convey or relinquish any interests in, such lands described in any certificate recorded pursuant to Section 2.

(b) With the approval of the commission, Arcata as to the Arcata tidelands, or the district as to district tidelands, may establish the boundary or compromise boundary lines of such lands or otherwise settle any dispute concerning the nature and extent of its right, title, and interest in or to any portion of such lands.

SEC. 4. Any consideration to be paid to Arcata or the district for any conveyance or settlement under this act shall be determined by Arcata as to Arcata tidelands, or the district as to district tidelands, with the approval of the commission. In determining the adequacy of any such consideration, effect shall be given to all factors bearing upon the value, if any, of the public's interest being conveyed or settled, and the rights, claims, and equities of the person in whose favor the conveyance or settlement is being made and that of his predecessors in interest. Where lands have been filled, reclaimed, or improved without the expenditure of either state funds or any public moneys held subject to conditions imposed by, or related to, the public trust for commerce, navigation, and fishery, or any statute implementing such public trust, the value of fill, improvements, or both, may be taken into consideration in determining the value of such consideration. Consideration under this act may consist of anything of value, including, but not limited to, interests in lands and moneys.

SEC. 5. Any lands, or interests therein, conveyed by Arcata or the district in accordance with subdivision (a) of Section 3 of this act, shall be freed of the trusts and conditions imposed by the statutes granting such lands to such conveying entity.

Notwithstanding anything in this act to the contrary, no lands subject to tidal action or permanently covered by water shall be conveyed under the provisions of this act or be freed of the trusts and conditions imposed by the public trust for commerce, navigation, and fishery and the statutes granting such lands to Arcata or the district.

Any certificate of the commission recorded under the provisions of Section 2 shall be conclusive as to the facts declared therein.

Any conveyance of fee lands by Arcata or the district executed pursuant to the provisions of subdivision (a) of Section 3 of this act shall reserve to the State of California all oil, gas, and other minerals, as provided in Section 6401 of the Public Resources Code; provided, however, that no such reservation shall be required if such conveying entity receives in consideration for such conveyance other lands and the mineral rights in such other lands and conveys to the state such

mineral rights as are of at least equal value to the mineral rights to which the reservation does not apply, and if the commission approves such exchange of mineral rights. The reservation of such mineral rights shall not preclude the conveyance, quitclaim, or release of the right of entry upon the surface of the conveyed lands for the purposes of drilling, mining, or extraction of the reserved interests.

SEC. 6. All lands and other consideration received by Arcata or the district pursuant to this act shall, for all purposes of administration, control, and disposition, be subject to the public trust for commerce, navigation, and fishery.

SEC. 7. Any grants, conveyances, franchises, leases, permits, rights, or privileges made in accordance with this act shall be exempt from the restrictions, prohibitions, and conditions of Section 23 of the Humboldt Bay Harbor, Recreation, and Conservation District Act and Section 6008 of the Public Resources Code. Notwithstanding the provisions of Section 6008 of the Public Resources Code, the district may:

(a) Grant leases, rights, and permits to the State of California or the United States government with respect to any of the district tidelands for any purpose set forth in paragraph (2) of subdivision (c) of Section 7 of the Humboldt Bay Harbor, Recreation, and Conservation District Act.

(b) Grant leases, rights, and permits for any lawful purpose in the following described area of district tidelands: Sections 7, 8, 17, 18, 19, and 20, Range 1, West, Township 4 North, Humboldt Meridian, Humboldt County, California.

SEC. 8. The provisions of Section 6359 of the Public Resources Code shall not apply to this act and no survey of lands shall be required by virtue of this act that was not required before its enactment.

SEC. 9. Prior to the taking of formal action by Arcata or the district, preliminary to conveying or relinquishing interests or establishing boundary lines in accordance with Section 2 or 3 of this act, Arcata as to Arcata tidelands, or the district as to district tidelands, shall consult with and solicit comments from the commission on such proposed actions.

SEC. 10. Section 23 of the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970) is amended to read:

Sec. 23. All grants, franchises, leases, permits, rights or privileges shall be made in accordance with such rules and regulations as the board shall prescribe by resolution. Irrevocable grants of fee title shall not be granted or issued.

SEC. 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications 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 1041

An act to amend Sections 205, 227.3 and 1696.5 of, and to add Section 205.5 to, the Labor Code, relating to labor.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 205 of the Labor Code is amended to read:

205. In agricultural, viticultural, and horticultural pursuits, in stock or poultry raising, and in household domestic service, when the employees in such employments are boarded and lodged by the employer, the wages due any employee remaining in such employment shall become due and payable once in each calendar month on a day designated in advance by the employer as the regular payday. No two successive paydays shall be more than 31 days apart, and the payment shall include all wages up to the regular payday. Notwithstanding the provisions of this section, wages of workers employed by a farm labor contractor shall be paid on payroll periods at least once every week on a business day designated in advance by the farm labor contractor. Payment on such payday shall include all wages earned up to and including the fourth day before such payday.

SEC. 1.5. Section 205.5 is added to the Labor Code, to read:

205.5. All wages, other than those mentioned in Section 201, earned by any agricultural employee, as defined in Section 1140.4, are due and payable twice during each calendar month, on days designated in advance by the agricultural employer as the regular paydays. Labor performed between the 1st and the 15th days, inclusive, of any calendar month shall be paid between the 16th and the 22nd day of the month during which the labor was performed. Labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid between the first and the seventh day of the following month. Agricultural employees, as used in this section, shall not include employees who are covered by Section 205.

SEC. 2. Section 227.3 of the Labor Code is amended to read:

227.3. Unless otherwise provided by a collective-bargaining agreement, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination. The Labor Commissioner or a designated representative, in the resolution of any dispute with regard to vested vacation time, shall apply the principles of equity and fairness.

SEC. 3. Section 1696.5 of the Labor Code is amended to read:

1696.5. Every licensee shall, at the time of each payment of wages, which shall be not less often than once every week as required by Section 205 of this code, furnish each of the workers employed by him either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing in detail each and every deduction made from such wages.

SEC. 4. The amendment to Section 227.3 of the Labor Code made by this act does not constitute a change in, but is declaratory of, the existing law and the intent of the Legislature in enacting Section 227.3 of the Labor Code by Chapter 1321 of the Statutes of 1972.

CHAPTER 1042

An act to amend Sections 1102, 1992, 1993, 1996, 1999, 2369, 2370, 3100, 3106, 3202, and 3255 of, to add Sections 1992.1, 1992.2, 1993.1, 1993.2, 1993.3, 1993.4, 1993.5, and 1994.1 to, and to repeal Section 1998 of, the Education Code, relating to school districts.

[Approved by Governor September 19, 1976 Filed with Secretary of State September 20, 1976.]

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

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

1102. In newly formed unified school districts there shall be no interim governing board, but the county superintendent of schools having jurisdiction over the particular district shall call an election for the purpose of choosing the first governing board of the district.

The election shall be held on the first Tuesday after the first Monday in March, June, or November next succeeding the call. The first members of the governing board of the district shall take office on the day the canvass of the election is certified by the county superintendent of schools. The first meeting of the governing board shall be called by the county superintendent of schools not later than the third Monday following the election. The term of office of subsequent members of the board shall begin on April 1st following their election.

SEC. 1.5. Section 1992 of the Education Code is amended to read:

1992. An action to form a new elementary district is initiated upon the filing with the county superintendent of schools of a petition for the new district. The petition shall be signed by at least 25 percent of the registered electors residing in the territory proposed to be included in the new district.

An action to form a new high school district or community college district is initiated upon the filing with the county superintendent of schools of a petition for the new district signed by either of the following:

(a) At least 25 percent of the registered voters residing in the territory proposed to be included in the new district.

(b) A majority of the members of the governing board of each district which would be components of the proposed new district.

A petition to form an elementary and high school district that would result in the formation of a unified school district under the provisions of Section 1976 shall indicate whether the governing board of the new district will have five or seven members, and it may also include a provision for trustee areas.

SEC. 2. Section 1992.1 is added to the Education Code, to read:

1992.1. Within 20 days after the filing of a petition under Section 1992, the county superintendent of schools shall examine it and, if he finds it to be sufficient and signed as required by law, transmit the petition simultaneously to the county committee on school district organization and to the State Board of Education.

SEC. 3. Section 1992.2 is added to the Education Code, to read:

1992.2. A petition transmitted to the county committee pursuant to this article shall be considered within 30 days by the committee at a regular meeting or special meeting called to review the petition.

The county committee shall prepare a report and recommendation on the petition. It shall report as to whether or not, in the opinion of the committee, the proposed formation of a new elementary school district, high school district, or unified school district formed pursuant to Section 1976, as described in the petition would:

(a) Adversely affect the school district organization of the county;

(b) Be compatible with any master plans submitted by the county committee and approved by the State Board of Education;

(c) Comply with the provisions of Section 1993.1.

In the event that the petition provides for establishing trustee areas, the county committee shall recommend trustee areas that provide for representation in accordance with population and geographic factors of the entire area of the proposed unified school district. The county committee may recommend as many trustee areas as needed, but not to exceed seven. The committee shall also include a provision for the election of members of the governing board by the registered voters of the entire school district or for the election of the member or members residing in each trustee area by the registered voters of that particular trustee area as part of its recommendation.

The report shall also contain a statement of the committee's findings on the adequacy of the proponent's stated reason or reasons for the proposed formation of the new school district, as set forth in the petition.

The report may include a statement by the governing board or

boards of the affected district or districts relating to the proposed formation of the new district.

The report may include other pertinent matters which the county committee desires to bring to the attention of the State Board of Education.

SEC. 4. Section 1993 of the Education Code is amended to read:

1993. The county superintendent of schools shall, within 30 days following the regular or special meeting called by the county committee to review the petition, transmit the report and recommendation of the county committee to the office of the secretary of the State Board of Education.

SEC. 5. Section 1993.1 is added to the Education Code, to read:

1993.1. The State Board of Education may approve petitions for the formation of an elementary, high, or unified school district under this article upon the finding that the proposed district or districts will substantially comply with the following conditions:

(a) That the new district or districts will be adequate in terms of numbers of pupils enrolled;

(b) That the new district or districts will be adequate in terms of financial ability. For purposes of determining financial ability consideration shall be given to revenue limits per pupil, assessed valuations per pupil, and tax rates;

(c) That the new district or districts are organized on the basis of substantial community identity;

(d) That the proposal will result in an adequate division of property and facilities of the original district; and

(e) That the proposal and formation of the new district will not promote racial or ethnic discrimination or segregation. The State Board of Education may secure the advice and assistance of any other public agencies concerned with intergroup relationships for purposes of making determinations under this subdivision.

The State Board of Education may waive the criteria specified in subdivisions (a) through (e) of this section and may approve a proposal for the formation of one or more school districts if the board determines that the circumstances, with respect to the proposals, provide an exceptional situation sufficient to justify approval of the proposals.

The State Board of Education shall adopt rules and regulations to carry out the intent of this section.

SEC. 6. Section 1993.2 is added to the Education Code, to read:

1993.2. The State Board of Education, if it approves a petition for the formation of a new elementary and new high school district or for the formation of a new unified school district under the provisions of this article, shall include a provision for authorization of a revenue limit per unit of average daily attendance for the proposed new school district, and such provision shall be an inherent part of the proposal, and shall not be construed as a separate proposition. If the reorganization is approved by the registered voters of the area, such revenue limit per unit of average daily attendance shall be the

maximum revenue limit per unit of average daily attendance for the type of new district formed until changed by Section 20905 or by the registered voters of the district in the manner prescribed in Section 20803.2. Such revenue limit per unit of average daily attendance shall not be less than the revenue limit which would be produced if (a) for the fiscal year prior to the fiscal year in which the reorganization becomes effective for all purposes, the sum of the revenue limit of each of the proposed school districts to be wholly included and the proportional share of the revenue limit of each district to be partially included in the proposed reorganized district is divided by the total number of units of average daily attendance that would have been in the proposed reorganized district had it been reorganized in the fiscal year prior to the fiscal year in which the reorganization becomes effective for all purposes plus, (b) the revenue limit per unit of average daily attendance required to equal the amount of the difference between the average certificated and the average classified salary of each of the component school districts, or any portion of a district, during the fiscal year prior to that in which the district becomes effective for all purposes and the highest average certificated and the highest average classified salary of any component district included in the proposal, multiplied by the number of employees in each category, less the number of employees in each category of the district having the highest average salaries.

In computing the increase in the revenue limit in subdivision (b) of this section, any school district or a portion of a district to be included in any proposed reorganized district may be considered in determining the highest average salary, provided that such school district or a portion of a district contains at least 10 percent of the total number of certificated and classified employees in the proposed district, plus, (c) the estimated adjustment to the revenue limit per average daily attendance pursuant to Section 20905 that the proposed reorganized district would be allowed had it been reorganized in the fiscal year prior to the fiscal year in which the reorganization becomes effective for all purposes.

SEC. 7. Section 1993.3 is added to the Education Code, to read:

1993.3. The State Board of Education, if it approves a petition under this chapter, shall include provisions for the use of any school property of the school districts proposed to be wholly or partially included in a new school district.

Such provisions for the use of school property shall be deemed to be an integral part of the proposal and shall not be construed as a separate proposition.

SEC. 8. Section 1993.4 is added to the Education Code, to read:

1993.4. The State Board of Education, if it approves a petition under this chapter, shall include a provision for the division of property when the entire territory or a portion of the territory of a school district is withdrawn and included in another school district, or is formed into a new school district, or is included in two or more

new school districts. All property, funds, and obligations of the former district, or portion of the former district, including the bonded indebtedness, shall be allocated as herein provided:

(a) The real property and personal property and fixtures normally situated thereat shall be the property of the school district in which the real property is located; and

(b) Except as provided otherwise by law, all other property and funds, after all obligations, except for bonded indebtedness, have been discharged, shall be divided pro rata among the school districts in which the territory of the former school district is included.

The board shall also provide for the division of funds, including cash on hand and moneys due but uncollected on the date reorganization becomes effective for all purposes, and state apportionments based on average daily attendance earned in the year immediately preceding the date reorganization becomes effective for all purposes.

In providing for the division of property, funds, and obligations, including bonded indebtedness, the board may consider (1) the ratio that the assessed valuation of the part of the district to be included within a new school district bears to the entire school district from which it was taken, or, (2) the ratio that the number of school age pupils of the part of the district to be included within a new district bears to the entire district from which it was taken, or, (3) the average of (1) and (2) above, or (4) the value and location of the property, or, (5) such other matters as the board may deem important and pertinent. Any funds derived from the sale of bonds issued by the former school district shall be used for the acquisition, construction or improvement of school property only in the territory which comprised the former district or to discharge bonded indebtedness of the former district, except that, if the bond debt is assumed by the new district, the funds may be used in any area of the new school district for the purpose for which the bonds were originally voted.

SEC. 9. Section 1993.5 is added to the Education Code, to read:

1993.5. The State Board of Education, if it approves a petition under this chapter, shall provide that, if the boundaries of a school district are relocated under this chapter, so that a portion of the students will not be residents of the school district thereafter maintaining a school previously attended by the students, and if there is in the school an organized student body, the property, funds, and obligations of the student body shall be divided as determined by the board, except that the share shall not exceed an amount equal to the ratio which the number of students leaving the school bears to the total number of students enrolled. The ownership of the property, funds, and obligations, which is the proportionate share of each segment of the student body, shall be transferred to the student body of the school or schools in which the students are first enrolled during the school year next succeeding the reorganization. Funds from devises, bequests, or gifts made to the organized student body

03626 287185 313

of a school shall remain the property of the organized student body of that school and shall not be divided.

SEC. 10. Section 1994.1 is added to the Education Code, to read:

1994.1. When it is necessary for the State Board of Education to consider petitions submitted under this chapter and prepare a proposal relating to such a petition, each county superintendent of schools and every other county officer in the counties affected, and the district superintendent of the school districts affected shall provide the statistical information required by the Department of Education to complete the study.

SEC. 11. Section 1996 of the Education Code is amended to read:

1996. If the State Board of Education approves the formation of the proposed new district the secretary of the board shall immediately notify the county superintendent of schools. Within 20 days after receiving the notification, he shall call an election, in the manner prescribed in Division 4 of this code, to be conducted at the next regular election, in the territory or districts as determined by the State Board of Education. Each provision in a proposal to form a new school district or districts, as provided by the State Board of Education, shall be considered an inherent part of the total proposal and not be construed as a separate proposition. The ballot used in the election shall contain the words "For the formation of the new _____ District with a revenue limit per unit of average daily attendance of _____, such limit to be in effect for the school year commencing _____" followed by the words "Yes" and "No" so placed that the voter may clearly indicate his choice.

SEC. 12. Section 1998 of the Education Code is repealed.

SEC. 13. Section 1999 of the Education Code is amended to read:

1999. The statement of official information and statistics prepared and distributed pursuant to Section 1997 in connection with the proposed new school district shall contain a statement by the county superintendent of schools, of the amount by which the revenue limit, as computed pursuant to Section 1993.2, of the new district, would be required to be increased in order to produce an amount of revenue equal to the sum of the revenues of each of the districts proposed to be partially or wholly included therein produced by all of the taxes levied, pursuant to statutes authorizing taxes to be levied for particular purposes without compliance with Sections 20751 and 20803, or Section 20803.2, whichever is applicable, in such districts during the school year prior to the fiscal year in which the election for reorganization was held.

SEC. 14. Section 2369 of the Education Code is amended to read:

2369. When the petition, report and recommendation are transmitted to the county board of supervisors or county board of education, as the case may be, the county superintendent of schools shall set the matter for hearing by the board of supervisors or county board of education at a regular meeting of the board.

At least 10 days prior to the date of the hearing the county superintendent shall send by certified mail a notice of hearing and

a copy of the report and recommendation of the county committee to the chief petitioners, if any have been designated, and to the governing board of each school district whose boundaries would be affected by the proposed change, and shall post copies of the notice as provided in Section 1343 or publish a copy of the notice as provided in Section 1344.

SEC. 15. Section 2370 of the Education Code is amended to read:

2370. After hearing all interested persons, the board of supervisors or county board of education, as the case may be, shall grant or deny the petition or require an election to be held. If the board grants the petition it shall determine whether all or only a part of the territory shall be transferred. If the board requires an election to be held it shall determine whether the election shall be held in the whole elementary, unified, or community college district from which the territory would be transferred or whether the election shall be held only in the territory proposed to be transferred. The county superintendent of schools shall call, hold, and conduct any election required by this section.

SEC. 16. Section 3100 of the Education Code is amended to read:

3100. It is the intent and purpose of the Legislature that the procedures prescribed by the provisions of this chapter and Chapter 9 (commencing with Section 3001) of this division be utilized primarily for the formation of unified school districts, and that this form of organization be ultimately adopted throughout the state. It is the further intent of the Legislature that in exercising the authority to approve master plans and plans and recommendations developed at the local level, the State Board of Education consider the boundaries of existing high school districts as the minimum geographical base for the organization of individual unified school districts, to be deviated from only in exceptional situations. The State Board of Education may approve proposals for the formation of districts based upon the division of the territory of existing high school districts, provided that the board has determined, with respect to the proposal and the resulting new districts that the following conditions are substantially met:

(a) That the new districts will be adequate in terms of number of pupils enrolled.

(b) That the new districts will be adequate in terms of financial ability. For purposes of determining financial ability, consideration shall be given to revenue limits per pupil, assessed valuation per pupil, and tax rates. The board may give such consideration as it deems appropriate to federal funds received by a school district under the act of Congress entitled "An act to provide financial assistance for local educational agencies in areas affected by federal activities, and for other purposes," approved September 30, 1950 (Public Law 874—81st Congress) or under any similar act of Congress.

(c) That the new districts are each organized on the basis of a substantial community identity.

(d) That the proposal will result in an equitable division of property and facilities of the original district.

(e) That the proposal and the formation of the new districts will not promote racial or ethnic discrimination or segregation. The State Board of Education may secure the advice and assistance of any other public agencies concerned with intergroup relationships for purposes of making determinations under this subdivision.

The State Board of Education may waive the criteria specified in subdivisions (a) through (e) of this section and may approve a proposal for the formation of two or more unified school districts from the territory of a high school district if the board determines the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

The State Board of Education shall adopt rules and regulations to carry out the intent of this section.

SEC. 17. Section 3106 of the Education Code is amended to read:

3106. (a) An elementary school which has been included in a unified district because of a reorganization of districts under provisions of this chapter or, under the provisions of Article 2 (commencing with Section 1991) of Chapter 2 of this division relating to formation of new school districts by petition, shall be maintained as an elementary school by the unified district unless discontinued as provided in this section. The governing board of the unified district may adopt a resolution or order to discontinue the elementary school at any regular or special meeting of the board and the order or resolution shall be in effect after 30 days unless within this period of time a petition is filed with the governing board requesting the continuance of the school signed by the parents or guardians of at least 10 or one-third, whichever number is the greater, of children of elementary school age, who are eligible to attend such school at the time of the petition. The signature of one parent is sufficient to represent all of the children of such parent. The parents or guardians eligible to sign such petitions shall be residents within the boundaries of the component elementary school district which maintained the school prior to the establishment of the unified school district, and shall be qualified electors within such district at the time the petition is filed, and shall have children of elementary school age who attend or are eligible to attend such school. An elementary school which is continued in operation by the filing of a petition pursuant to this section, shall remain in continuance for a period of three school years, unless the petition provides for a shorter period of continuance. If the governing board intends to discontinue the elementary school at the expiration of such period, it shall, commencing at least 90 days prior to the expiration of such period, publish in a newspaper of general circulation in the county, once each week for at least three weeks, a notice of intended discontinuance, and may thereafter adopt a resolution or order as heretofore provided. If a school is discontinued as herein provided, the governing board of the unified school district may maintain the

building for community and civic center and other lawful purposes.

(b) Subdivision (a) of this section does not apply to any unified school district which has an average daily attendance of 15,000 or more or to a school which is five miles or less from another elementary school.

SEC. 18. Section 3202 of the Education Code is amended to read:

3202. On receipt of a petition signed by at least 10 percent or 250, whichever is the lesser, of the qualified electors residing in any district for a consideration of unification or other reorganization of any area, the county committee shall hold a public hearing. Following such hearing, the committee shall study further the matter petitioned in the manner herein described in this chapter and shall adopt a tentative recommendation following which action it shall hold one or more public hearings in the area proposed for reorganization as specified in Section 3209. If the petition involves territory already under study by the county committee, no further hearings shall be required.

The public hearing required by this section shall be called by:

(a) Sending a notice to the governing board of each school district involved at least 10 days prior to the hearing, and

(b) Posting a notice of the hearing as provided in Section 1343 or publishing a notice of the hearing as provided in Section 1344.

The notices shall contain information as to the time, place, and purpose of the hearing.

SEC. 19. Section 3255 of the Education Code is amended to read:

3255. In any proposal for reorganization of school districts, except a community college district, recommended by a county committee, the committee shall include a provision for the authorization of a revenue limit per unit of average daily attendance for the proposed new district, and such provision shall be an inherent part of the proposal, and shall not be construed as a separate proposition. If the reorganization is approved by the registered voters of the area, such revenue limit per unit of average daily attendance shall be the maximum revenue limit per unit of average daily attendance for the type of new district formed until changed by Section 20905 or by the registered voters of the district in the manner prescribed in Section 20803.2. Such revenue limit per unit of average daily attendance shall not be less than the revenue limit which would be produced if (1) for the year prior to the fiscal year in which the reorganization becomes effective for all purposes, the sum of the revenue limit of each of the districts proposed to be wholly included and the proportional share of revenue limit of each district to be partially included in the proposed reorganized district is divided by the total number of units of average daily attendance that would have been in the proposed reorganized district had it been reorganized the year prior to the fiscal year in which the reorganization becomes effective for all purposes plus, (2) the revenue limit per unit of average daily attendance required to equal the amount of the difference between the average certificated and the average classified salary of each of

the component districts or any portion of a district during the school year prior to that in which the district becomes effective for all purposes and the highest average certificated and highest average classified salary of any component district included in the proposal multiplied by the number of employees in each category less the number of employees in each category of the district having the highest average salaries.

In computing the increase in the revenue limit in subdivision (2) of this section, any school district or a portion of a district to be included in any proposed reorganized district may be considered in determining the highest average salary, provided that such school district or a portion of a district contains at least 10 percent of the total number of certificated and classified employees in the proposed reorganized district, plus (3) the estimated adjustment to the revenue limit per average daily attendance pursuant to Section 20905 that the proposed reorganized district would be allowed had it been reorganized the year prior to the fiscal year in which the reorganization becomes effective for all purposes.

This section shall be subject to Section 20907.

SEC. 20. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there by 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 place any financial burden on local government.

CHAPTER 1043

An act to add Section 10753.4 to the Revenue and Taxation Code, relating to the taxation of mobilehomes.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 10753.4 is added to the Revenue and Taxation Code, to read:

10753.4. (a) Notwithstanding any other provisions of law, every dealer who sells a trailer coach required to be moved under permit shall state on a certificate attached to the sales contract the cost price upon which the vehicle license fee is computed separately from the cost of accessories or other charges for such trailer coach.

(b) The department shall determine what items shall be included and what items shall not be included in the cost price upon which the vehicle license fee is computed for a trailer coach required to be moved under a permit and the manner of computation of such cost price. The department shall notify every dealer authorized to sell a

trailer coach required to be moved under a permit of (1) the requirement that the sales contract state the cost price upon which the vehicle license fee is computed separately from the cost of accessories or other charges for such trailer coaches and (2) the manner in which such cost price is to be determined.

CHAPTER 1044

An act to amend Sections 35470 and 35471 of the Water Code, relating to California water districts.

[Approved by Governor September 19, 1976 Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 35470 of the Water Code is amended to read:

35470. Any district formed on or after July 30, 1917, may, in lieu in whole or in part of raising money for district purposes by assessment, make water available to the holders of title to land or the occupants thereon, and may fix and collect charges therefor. The charges may include standby charges to holders of title to land to which water may be made available, whether the water is actually used or not. The charges may vary in different months and in different localities of the district to correspond to the cost and value of the service, and the district may use so much of the proceeds of the charges as may be necessary to defray the ordinary operation or maintenance expenses of the district and for any other lawful district purpose.

SEC. 2. Section 35471 of the Water Code is amended to read:

35471. Any funds derived pursuant to Section 35470 in excess of the amount necessary for operating or maintenance expenses and other lawful district purposes shall be applied by the treasurer upon the payment of interest on general obligation bonds or to create a sinking fund.

CHAPTER 1045

An act to amend Sections 1205 and 2900.5 and to repeal Section 2900.6 of the Penal Code, and to amend Section 42003 of the Vehicle Code, relating to criminal sentences.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 1205 of the Penal Code is amended to read:

1205. A judgment that the defendant pay a fine, with or without other punishment, may also direct that he be imprisoned until the fine is satisfied and may further direct that such imprisonment begin at and continue after the expiration of any imprisonment imposed as a part of the punishment or of any other imprisonment to which he may theretofore have been sentenced. Every such judgment shall specify the extent of the imprisonment for nonpayment of the fine, which shall not be more than one day for each thirty dollars ($30) of the fine, nor exceed in any case the term for which the defendant might be sentenced to imprisonment for the offense of which he has been convicted. A defendant held in custody for nonpayment of a fine shall be entitled to credit on the fine for each day he is so held in custody, at the rate specified in the judgment. When the defendant has been convicted of a misdemeanor, a judgment that the defendant pay a fine may also direct that he pay the fine within a limited time or in installments on specified dates and that in default of payment as therein stipulated he be imprisoned in the discretion of the court either until the defaulted installment is satisfied or until the fine is satisfied in full; but unless such direction is given in the judgment, the fine shall be payable forthwith.

Except as otherwise provided in case of fines imposed as conditions of probation, the defendant must pay the fine to the clerk of the court, or to the judge thereof if there is no clerk, unless the defendant is taken into custody for nonpayment of the fine, in which event payments made while he is in custody shall be made to the officer who holds him in custody and all amounts so paid shall be forthwith paid over by such officer to the court which rendered the judgment. The clerk shall report to the court every default in payment of a fine or any part thereof, or if there is no clerk, the court shall take notice of such default. If time has been given for payment of a fine or it has been made payable in installments, the court shall, upon any default in payment immediately order the arrest of the defendant and order him to show cause why he should not be imprisoned until the fine or installment thereof, as the case may be, is satisfied in full. If the fine, or installment, is payable forthwith and it is not so paid, the court shall without further proceedings, immediately commit the defendant to the custody of the proper officer to be held in custody until the fine or installment thereof, as the case may be, is satisfied in full. The provisions of this section shall apply to any violation of any of the codes or statutes of the State of California punishable by a fine or by a fine and imprisonment.

SEC. 2. Section 2900.5 of the Penal Code is amended to read:

2900.5. (a) In all felony and misdemeanor convictions, either by plea or by verdict, when the defendant has been in custody, including but not limited to any time spent in a jail, camp, work furlough facility, halfway house, rehabilitation facility, hospital, prison, or similar institution, all days of custody of the defendant, including days served as a condition of probation in compliance with

a court order, shall be credited upon his sentence, or credited to any fine which may be imposed, at the rate of not less than thirty dollars ($30) per day, or more, in the discretion of the court imposing the sentence. If the total number of days in custody exceeds the number of days of the sentence to be imposed, the entire sentence shall be deemed to have been served. In any case where the court has imposed both a prison or jail sentence and a fine, any days to be credited to the defendant shall first be applied to the sentence imposed, and thereafter such remaining days, if any, shall be applied to the fine.

(b) For the purposes of this section, credit shall be given only where the custody to be credited is attributable to proceedings related to the same conduct for which the defendant has been convicted.

(c) For the purposes of this section, "sentence" includes any fine or period of imprisonment imposed as a condition of probation or otherwise ordered by a court in imposing or suspending the imposition of any sentence, and also includes any term of imprisonment, including any period of imprisonment prior to release on parole and any period of imprisonment and parole, prior to discharge, whether established or fixed by statute, by any court, or by any duly authorized administrative agency. The credits provided by this section shall not be considered in establishing or fixing any condition of probation, parole date, or term of imprisonment; but such credits shall be applied to any such condition of probation, parole date, or term of imprisonment no later than one week after it has been established or fixed.

(d) It shall be the duty of the court imposing the sentence to determine the total number of days to be credited pursuant to the provisions of this section. The total number of days to be credited shall be contained in the abstract of judgment provided for in Section 1213.

SEC. 3. Section 2900.6 of the Penal Code is repealed.

SEC. 4. Section 42003 of the Vehicle Code is amended to read:

42003. (a) A judgment that a person convicted of an infraction be punished by a fine may also provide for the payment to be made within a specified time or in specified installments. A judgment granting a defendant time to pay the fine shall order that if the defendant fails to pay the fine or any installment thereof on the date that it is due he shall appear in court on that date for further proceedings. Willful violation of the order is punishable as contempt.

(b) A judgment that a person convicted of any other violation of this code be punished by a fine may also order, adjudge and decree that the person be imprisoned until the fine is satisfied. In every such case, the judgment shall specify the extent of the imprisonment which shall not exceed one day for every thirty dollars ($30) of the fine, nor extend in any such case beyond the term for which the defendant might be sentenced to imprisonment for the offense of which he was convicted.

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 on local government, and because there are savings as well as costs in this act that, in the aggregate, do not result in expensive cost changes.

CHAPTER 1046

An act to add and repeal Section 405.6 to the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 19, 1976 Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 405.6 is added to the Revenue and Taxation Code, to read:

405.6. On or before March 1, 1978, each assessor shall file with the board a plan for the orderly, sequential, cyclical appraisal or reappraisal of all property within such assessor's county. The plan may be by geographical area or areas or according to property classification or by a combination of geographical areas and property classification. The plan shall specify the area or areas or property classification or classifications or combinations of areas and classifications to be assessed in each year of the proposed cycle, provided that no cycle shall be more than five years. The plan shall require that at the completion of the cycle all property in the county shall be appraised or reappraised at least once and that if the plan is by geographical areas, all the properties within the designated area or areas be appraised or reappraised without regard to classification in the designated assessment year. If the plan is by property classification, all properties of the designated classification shall be assessed in the designated assessment year. If the plan is a combination of areas and classifications, all the property of the designated classification or classifications within the designated area or areas shall be appraised or reappraised in the assessment year so designated.

It is the intent of the Legislature that all properties within a county be appraised or reappraised once within the designated cycle according to the plan and that no property or classification or area be appraised or reappraised out of order or more than once while other properties, areas or classifications escape appraisal or reappraisal; provided, however, that nothing in this section shall be interpreted to preclude an assessor from appraising or reappraising

selected properties out of order or outside the designated area, classification or area and classification if such appraisal or reappraisal is necessary to maintain the equalization of all properties in the county as required by Article XIII of the Constitution; provided further, however, that in any such event, the assessor, prior to March 1st of the assessment year of such appraisal or reappraisal, shall file with the board a list of such properties or a map delineating the area or areas or a list of classifications designated to be appraised or reappraised out of order and a statement of the reasons necessitating such appraisal or reappraisal out of order.

Under no circumstances shall the assessor permit any property within his county to escape assessment or reassessment during any one cycle or to escape assessment or reassessment in the assessment year designated in the plan.

This section shall remain in effect only until January 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such date.

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 governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1047

An act to add Section 2652.5 to the Penal Code, relating to prisoners.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 2652.5 is added to the Penal Code, to read:

2652.5. No person employed by the Department of Corrections, the Department of the Youth Authority, or any city or county jail facility shall place any chain or other mechanical restraint around the neck of any prisoner for any purpose. Any violation of this section shall be a misdemeanor.

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 1048

An act to amend Sections 30303, 30313, 30320, 30321.5, 30328, and 30329 of the Education Code, relating to private colleges and universities.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 30303 of the Education Code is amended to read:

30303. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

"Authority" means the California Educational Facilities Authority created by this chapter or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law;

"Bond" means bonds, notes, debentures, or other securities of the authority issued pursuant to this chapter;

"Dormitory" means a housing unit with necessary and usual attendant and related facilities and equipment;

"Educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, health care facility (including for an institution of higher education which maintains and operates a school of medicine, structures or facilities providing or designed to provide services as a hospital or clinic, whether such hospital or clinic is operated directly by the institution of higher education or by a separate nonprofit corporation, the member or members of which consist of the educational institution or the members of its governing body), and parking, maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship or any facility used or to be used primarily in connection with any part of the program of a school or department of divinity;

"Participating college" means a private college which neither restricts entry on racial or religious grounds nor requires all students

gaining admission to receive instruction in the tenets of a particular faith, and which, pursuant to the provisions of this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project;

"Project" means a dormitory or an educational facility or any combination thereof;

"Private college" means an institution for higher education other than a public college, situated within the state and which, by virtue of law or charter, is a nonprofit educational institution empowered to provide a program of education beyond the high school level;

"Cost," as applied to a project or portion thereof financed under the provisions of this chapter, embraces all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period after completion of such construction as determined by the authority, provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

SEC. 2. Section 30313 of the Education Code is amended to read:

30313. (a) The authority is authorized from time to time to issue its negotiable bonds for any corporate purpose. In anticipation of the sale of such bonds the authority may issue negotiable bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds or notes shall be general obligations of the authority payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys and subject to any agreements with any participating institution. Notwithstanding that such bonds or notes may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds or notes for registration.

03758 287465 369

(c) The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds or notes may be sold by the State Treasurer at public sale, or the authority, after giving due consideration to the recommendations of the participating institution, may direct the State Treasurer to sell such bonds or notes at private sale.

In the case of public sale, (1) the bonds specified in the resolution shall be sold by the State Treasurer, at such time as may be fixed by him, and upon such notice as he may deem advisable, or at the time to which the sale shall have been continued, at public sale, upon sealed bids, to the bidder whose bid will result in the lowest net interest cost on account of such bonds and (2) if no bids are received, or if the State Treasurer determines that the bids are not satisfactory, the State Treasurer may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to: (1) pledging the full faith and credit of the authority or pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist; (2) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues; (3) the setting aside of reserves or sinking funds, and the regulation and disposition thereof; (4) limitations on the right of the authority or its agent to restrict and regulate the use of the project; (5) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds; (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds; (7) 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; (8) limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of the authority; (9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default; and (10) the mortgaging of a project and the site thereof for the purpose of securing the bondholders.

(e) Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

SEC. 3. Section 30320 of the Education Code is amended to read:

30320. (a) The authority is hereby authorized to loan funds to a participating institution and to provide for the issuance of bonds for the purpose of refinancing projects not originally funded pursuant to this chapter, such refinancing to include the repayment of costs, as defined in Section 30303, incurred for projects by the participating institution and which have a completion date subsequent to December 29, 1969.

(b) For purposes of this section, "completion date" shall mean, in the case of construction or renovation of a project, the date on which the notice of completion is filed, and, in the case of the acquisition of a project, the date of such acquisition.

(c) All such bonds shall be subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

SEC. 4. Section 30321.5 of the Education Code is amended to read:

30321.5. The total amount of bonds authorized to be outstanding at any one time under this chapter shall be one hundred fifty million dollars ($150,000,000).

SEC. 5. Section 30328 of the Education Code is amended to read:

30328. In addition to foregoing powers, the authority shall have power:

(a) Upon application of the participating college to construct, acquire, refinance, or otherwise provide projects for the use and benefit of the participating college and the students, faculty and staff of such participating college. The participating college for which such a project is undertaken by the authority shall approve the plans and specifications and location of such project;

(b) To lease any project provided pursuant to this section to the participating college for which such project is provided. At such time as the liabilities of the authority incurred for any such project have been met and the bonds of the authority issued therefor have been

paid, or such liabilities and bonds have otherwise been discharged, the authority shall transfer title to all the real and personal property of such project vested in the authority, to the participating college in connection with which such project is then leased; provided, however, that if at any time prior thereto such participating college ceases to offer educational facilities, then such title shall vest in the State of California.

Any lease of a project authorized by this section shall be a general obligation of the lessee and may contain provisions, which shall be a part of the contract with the holders of the bonds of the authority issued for such project, as to:

(i) Pledging all or any part of the moneys, earnings, income and revenues derived by the lessee from such project or any part or parts thereof, or other personal property of the lessee, to secure payments required under the terms of such lease;

(ii) The rates, rentals, fees and other charges to be fixed and collected by the lessee, the amounts to be raised in each year thereby, and the use and disposition of such moneys, earnings, income and revenues;

(iii) The setting aside of reserves and the creation of special funds and the regulation and disposition thereof;

(iv) The procedure, if any, by which the terms of such lease may be amended, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(v) Vesting in a trustee or trustees such specified properties, rights, powers and duties as shall be deemed necessary or desirable for the security of the holders of the bonds of the authority issued for such projects;

(vi) The obligations of the lessee with respect to the replacement, reconstruction, maintenance, operation, repairs and insurance of such project;

(vii) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the lessee, and providing for the rights and remedies of the authority and of its bondholders in the event of such default;

(viii) Any other matters, of like or different character, which may be deemed necessary or desirable for the security or protection of the authority or the holders of its bonds.

SEC. 6. Section 30329 of the Education Code is amended to read:

30329. The authority also shall have power:

(a) To make loans to any private college for the acquisition or construction of projects in accordance with a loan agreement and in accordance with plans and specifications which shall be subject to approval by the authority. No such loan shall exceed the total cost of such project and the equipment therefor as determined by the authority. Each such loan shall be premised upon an agreement between the authority and the private college as to payment, security, maturity, redemption, interest and other appropriate matters.

(b) To make loans to any private college to refund existing bonds, mortgages or advances, or other obligations incurred, given, or made by such private college for the acquisition or construction of any projects.

CHAPTER 1049

An act to amend Sections 40420 and 43101 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 40420 of the Health and Safety Code, as added by Chapter 324 of the Statutes of 1976, is amended to read:

40420. The district shall be governed by a district board consisting of 10 members appointed as follows:

(a) Two members appointed by the Board of Supervisors of the County of Los Angeles, who shall be members of the board of supervisors.

(b) One member of the City Council of Los Angeles appointed by the Mayor of Los Angeles.

(c) One member of any city council, except the City Council of Los Angeles, in the portion of the County of Los Angeles included within the south coast district appointed by a committee consisting of the members of the city selection committee from that portion of the county.

(d) One member appointed by each of the other boards of supervisors of the counties included, in whole or in part, within the south coast district, which member shall be a member of the appointing board of supervisors.

(e) One member of any city council in the County of Orange appointed by the city selection committee of that county.

(f) One member of any city council in those portions of the Counties of San Bernardino and Riverside included within the south coast district appointed by a committee consisting of the members of the city selection committees from those portions of the two counties.

(g) One member appointed by the Governor, with the advice and consent of the Senate, for a term of five years, which member shall be a resident of the County of Los Angeles and shall not be an elected public officer.

All members of the south coast district board shall be appointed not later than January 31, 1977.

A member of the south coast district board who is also a member of a board of supervisors may appoint an alternate member in his

03764 287530 382

place who shall be able to act on all south coast district matters except on the budget of the south coast district.

SEC. 2. Section 43101 of the Health and Safety Code is amended to read:

43101. The state board shall adopt and implement emission standards for new motor vehicles for the control of emissions therefrom, which standards the state board has found to be necessary and technologically feasible to carry out the purposes of this division. Prior to adopting such standards, the state board shall consider the impact of such standards on the economy of the state, including, but not limited to, their effect on motor vehicle fuel efficiency. The state board shall submit a report of its findings on which the standards are based to the Legislature within 30 days of adoption of the standards.

Such standards may be applicable to motor vehicle engines, rather than to motor vehicles.

CHAPTER 1050

An act to amend Section 1760.5 of the Welfare and Institutions Code, relating to the Youth Authority, and making an appropriation therefor.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 1760.5 of the Welfare and Institutions Code is amended to read:

1760.5. The director may require persons committed to the authority to perform work necessary and proper to be done by the Division of Forestry, the Department of Parks and Recreation, and the Department of Fish and Game, by the Division of State Lands, by the United States Department of Agriculture, and by the federal officials and departments in charge of national forests and parks within this state. For the purposes of this section, the director, with the approval of the Department of General Services, may enter into contracts with federal and state officials and departments. All moneys received by the director pursuant to any such contract shall be paid into the State Treasury to the credit and in augmentation of the current appropriation for the support of the authority. The director may provide, from such moneys, for the payment of wages to the wards for work they do pursuant to any such contract, such wages to be paid into the Indemnity Fund created pursuant to Section 13967 of the Government Code, or to the parents or dependents of the ward, or to the ward in such manner and in such proportions as the Department of the Youth Authority directs.

03779 287555 387

CHAPTER 1051

An act to amend Sections 52254.3, 52254.5, 52256.5, 52257.5, 52288, 52331, 52332, 52356, 52488, and 52515 of, and to repeal Sections 52299, 52323, 52324, 52331, 52332, and 52357 of, the Food and Agricultural Code, and to repeal Sections 15 and 16 of Chapter 919 of the Statutes of 1973, relating to seeds, and making an appropriation therefor.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 52254.3 of the Food and Agricultural Code is amended to read:

52254.3. "Board" means the Seed Advisory Board.

SEC. 2. Section 52254.5 of the Food and Agricultural Code is amended to read:

52254.5. "Labeler" means any person whose name and address appears on the label pertaining to or attached to a lot or container of agricultural or vegetable seed, or both agricultural and vegetable seed, for sale and distribution within the state.

SEC. 3. Section 52256.5 of the Food and Agricultural Code is amended to read:

52256.5. "Person" also means any individual, partnership, trust association, cooperative association, or any other business unit or organization.

SEC. 4. Section 52257.5 of the Food and Agricultural Code is amended to read:

52257.5. "Processor" means any person who cleans, scarifies, or blends to obtain uniform quality, and other operations which would change the purity, germination, or identity of any lot of seed, including, but not limited to, packaging, labeling, blending together of uniform lots of the same kind or variety, or the preparation of a mixture.

SEC. 5. Section 52288 of the Food and Agricultural Code is amended to read:

52288. The Legislature hereby declares that it is the intent of this chapter to enable the seed industry, with the aid of the state, to ensure that the product purchased by the consumer-buyer of seed is properly identified and of the quality represented on the tag or label.

SEC. 6. Section 52299 of the Food and Agricultural Code is repealed.

SEC. 7. Section 52323 of the Food and Agricultural Code is repealed.

SEC. 8. Section 52324 of the Food and Agricultural Code is repealed.

SEC. 9. Section 52331 of the Food and Agricultural Code is amended to read:

52331. The director, by regulations, shall do all of the following:

(a) Adopt germination standards for vegetable seed.

(b) Adopt tolerances to be applied in all enforcement procedure required by this chapter.

(c) Prescribe methods of procedure in the examination of lots of any agricultural or vegetable seed, and in securing samples of such lots.

(d) Establish a reasonable schedule of fees for tests, examinations, and services except those which are required for quarantine or other purposes, not directly related to the enforcement of this chapter. The schedule shall be based upon the approximate cost of the service rendered. The director may, however, provide for the examination of seeds for identification purposes without charge.

(e) Adopt such other regulations as will assist in carrying out the purposes of this chapter.

(f) Establish the amount of assessment fee necessary to provide sufficient funds to carry out the provisions of this chapter, and the dates and methods of collecting such assessment.

Every standard or tolerance which is adopted pursuant to this chapter shall be as nearly as practicable like that which is established under the Federal Seed Act (7 U.S.C., Sec. 1551, et seq.).

SEC. 10. Section 52331 of the Food and Agricultural Code, as added by Section 9 of Chapter 919 of the Statutes of 1973, is repealed.

SEC. 11. Section 52332 of the Food and Agricultural Code is amended to read:

52332. The director may, by regulation, adopt all of the following:

(a) A list of the plants and crops which he finds are or may be grown in this state from agricultural or vegetable seed.

(b) A list of the plants and crops which he finds are detrimental to agriculture if they occur incidentally in other crops, and which, therefore, are classed as weed seed except if sold alone or as a specific constituent of a definite seed mixture.

(c) A list of noxious weeds which he finds are primary noxious weeds, as defined in this chapter.

(d) A list of those noxious weeds which are not classified as primary noxious weeds, and which, therefore, are classed by this chapter as secondary noxious weeds.

(e) A list of seed-certifying agencies which he finds qualified to certify as to the variety, purity, quality, or other matter of agricultural or vegetable seed. The director shall consult with the Director of the University of California Agricultural Experiment Station before approving the qualifications of any agency to certify as to variety, type, strain, or other genetic character of agricultural or vegetable seed.

(f) A list of substances, which are likely to be used for treating grain or other crop seed, that he finds and determines are toxic to human beings or animals if so used, together with an appropriate warning or caution statement for each such substance.

(g) Establish methods and procedures, upon the

03795 287595 395

recommendation of the board, for the conciliation or mediation of dispute between a labeler and any person concerning the conformance with label statements as required by this chapter; provided, however, that such mediation or conciliation shall not affect any enforcement action by the director pursuant to this chapter.

SEC. 12. Section 52332 of the Food and Agricultural Code, as added by Section 11 of Chapter 919 of the Statutes of 1973, is repealed.

SEC. 13. Section 52356 of the Food and Agricultural Code is amended to read:

52356. Total expenditures from funds derived from registration fees and dollar volume assessments under this chapter shall not exceed the department's cost of carrying out the provisions of this chapter, including only that portion of state seed laboratory activity involved in official samples, which shall not exceed one-third of the net operating cost of the state seed laboratory. No official samples shall be analyzed by the department whenever the cost of such analysis exceeds one-third of the net operating costs of the laboratory. The cost incurred in carrying out the provisions of subdivision (g) of Section 52332 is excluded from these expenditures and shall be paid by the participants.

SEC. 14. Section 52357 of the Food and Agricultural Code is repealed.

SEC. 15. Section 52488 of the Food and Agricultural Code is amended to read:

52488. It is unlawful to violate any provisions of this chapter or any regulation adopted pursuant to this chapter.

SEC. 16. Section 52515 of the Food and Agricultural Code is amended to read:

52515. The director may, after hearing, refuse to issue or renew, or may suspend or revoke a registration for any violation of this chapter or any regulation adopted pursuant to this chapter. Proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.

SEC. 17. Section 15 of Chapter 919 of the Statutes of 1973 is repealed.

SEC. 18. Section 16 of Chapter 919 of the Statutes of 1973 is repealed.

CHAPTER 1052

An act to add Section 31014 to the Water Code, relating to taxation.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 31014 is added to the Water Code, to read:

31014. The term "irrigation district" as used in Chapter 1046 of the Statutes of 1969 includes a county water district and the Orange County Water District.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby under Section 2229 or 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any loss of revenue caused by any classification or exemption of property for purposes of ad valorem property taxation or 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 1053

An act to amend Sections 2732, 2750, 2786.5, 2795, 2811, and 2811.5 of, and to add Section 2734 to, the Business and Professions Code, relating to nursing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1976 Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 2732 of the Business and Professions Code is amended to read:

2732. No person shall engage in the practice of nursing, as defined in Section 2725, without holding a license which is in an active status issued under this chapter except as otherwise provided in this act.

Every licensee may be known as a registered nurse and may place the letters "R.N." after his name.

SEC. 2. Section 2734 is added to the Business and Professions Code, to read:

2734. Upon application in writing to the board and payment of the biennial renewal fee, a licensee may have his license placed in an inactive status for an indefinite period of time. A licensee whose license is in an inactive status may not practice nursing. However, such a licensee does not have to comply with the continuing education standards of Section 2811.5.

SEC. 3. Section 2750 of the Business and Professions Code is amended to read:

2750. Every licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article. The proceedings under

this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 4. Section 2786.5 of the Business and Professions Code is amended to read:

2786.5. The board shall on and after January 1, 1978, deny accreditation to any school of nursing which does not offer all of the courses required by the board for licensure as a registered nurse within the first 36 months of postsecondary training, or first six academic semesters, or the first nine academic quarters, whichever is lesser, unless that school of nursing is located at a postsecondary institution which admits no students to academic degree programs except as transferred or graduated students from other postsecondary institutions. "Postsecondary training", as used in this section, shall include all instruction received after matriculation in a postsecondary institution.

SEC. 5. Section 2795 of the Business and Professions Code is amended to read:

2795. Except as provided in this chapter, it is unlawful for any person to practice or to offer to practice nursing in this state unless such person holds a license in an active status, or to use any title, sign, card or device to indicate that he is qualified to practice or is practicing nursing, unless such person has been duly licensed under this chapter.

SEC. 6. Section 2811 of the Business and Professions Code is amended to read:

2811. (a) Each person holding a regular renewable license under this chapter, whether in an active or inactive status, shall apply for a renewal of his license and pay the biennial renewal fee required by this chapter each two years on or before the last day of the month following the month in which his birthday occurs, beginning with the second birthday following the date on which the license was issued, whereupon the board shall renew the license.

(b) Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.

(c) A license in an inactive status may be restored to an active status if the licensee meets the continuing education standards of Section 2811.5.

SEC. 7. Section 2811.5 of the Business and Professions Code is

amended to read:

2811.5. (a) Each person renewing his license under the provisions of Section 2811 shall submit proof satisfactory to the board that, during the preceding two-year period, he has informed himself of developments in the registered nurse field or in any special area of practice engaged in by such licensee, occurring since the issuance of his certificate, or the last renewal thereof, whichever last occurred, either by pursuing a course or courses of continuing education in the registered nurse field or relevant to the practice of such licensee, and approved by the board; or by other means deemed equivalent by the board. In lieu of submitting such proof, the license holder, if he so desires, may take and successfully complete an examination given by the board designed to test his knowledge of development occurring in the registered nurse field since the issuance of his license, or the last renewal thereof, whichever last occurred.

(b) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to assure that a variety of alternative forms of continuing education are available to licensees including, but not limited to, academic studies, in-service education, institutes, seminars, lectures, conferences, workshops, extension studies, and home study programs. The standards shall take cognizance of specialized areas of practice. The continuing education standards established by the board shall not exceed 30 hours of direct participation in a course or courses approved by the board, or its equivalent in the units of measure adopted by the board.

(c) This section shall not apply to licensees during the first two years immediately following their graduation from nursing school.

(d) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for licensees residing in another state or country, or for reasons of health, military service, or other good cause.

This section shall become operative on July 1, 1978.

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:

In 1974 the Legislature revised the requirements necessary for a school of nursing to be accredited by the Board of Registered Nursing and required the board to deny accreditation to any school not offering specified courses within specified time limits. The schools were to meet such requirements or be denied accreditation after January 1, 1976. Such requirements are creating a hardship on many schools who were previously accredited and need more time in which to comply with the new requirements.

In order to give schools of nursing additional time in which to comply with accreditation requirements, it is necessary that this act go into immediate effect.

CHAPTER 1054

An act to amend Sections 1265.5 and 4003 of, and to add Section 1265.7 to, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 1265.5 of the Unemployment Insurance Code is amended to read:

1265.5. Notwithstanding any other provision of this division, payments to an individual for vacation pay or holiday pay which was earned but not paid for services performed prior to termination of employment, or commencement of unemployment caused by disability, as the case may be, shall not be construed to be wages or compensation for personal services under this division and benefits payable under this division shall not be denied or reduced because of the receipt of such payments.

SEC. 2. Section 1265.7 is added to the Unemployment Insurance Code, to read:

1265.7. Notwithstanding any other provision of this division, payments to an individual for sick pay which was earned but not paid for services performed prior to termination of employment, shall not be construed to be wages or compensation for personal services under this division and benefits payable under this division shall not be denied or reduced because of the receipt of such payments.

SEC. 2.5. Section 4003 of the Unemployment Insurance Code is amended to read:

4003. (a) The provisions and definitions of terms in the "Federal-State Extended Unemployment Compensation Act of 1970" apply to this part. "Federal-state extended benefits" means benefits payable under this part.

(b) Effective with respect to compensation for weeks of unemployment beginning before April 1, 1977, and beginning after December 31, 1973, the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made as provided in subsection (e) of Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended by the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 (P.L. 94-45), as if subparagraph (A) of paragraph (1) of such subsection (e) did not exist.

(c) Effective with respect to compensation for weeks of unemployment beginning before December 31, 1976, and beginning after December 31, 1974, the determination of whether there has been a national "on" or "off" indicator beginning or ending any

extended benefit period shall be made under subsection (d) of Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended by the Emergency Unemployment Compensation Act of 1974 (P.L. 93-572), as if the phrase "4.5 per centum" contained in paragraphs (1) and (2) of subsection (d) of Section 203 of such act read "4 per centum."

SEC. 3. The provisions of Section 1265.5 of the Unemployment Insurance Code as amended by this act shall be operative with respect to payments of vacation pay and holiday pay made on or after January 1, 1977. The provisions of Section 1265.5 of the Unemployment Insurance Code as in effect prior to the amendments made by this act shall remain applicable to payments of vacation pay, sick pay, and holiday pay made prior to January 1, 1977.

SEC. 4. The provisions of Section 1265.7 of the Unemployment Insurance Code as added by this act shall be operative with respect to payments of sick pay made on or after January 1, 1977.

SEC. 5. 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 or school district 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 1055

An act to amend Sections 9200, 9200.5, 9201, 9202, and 9205 of the Welfare and Institutions Code, relating to aging.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 9200 of the Welfare and Institutions Code is amended to read:

9200. There is in the state government, the California Commission on Aging. The commission shall be composed of 25 persons: 19 persons appointed by the Governor, three persons appointed by the Speaker of the Assembly, and three persons appointed by the Senate Rules Committee. At least nine of the persons appointed by the Governor, two of the persons appointed by the Speaker of the Assembly and two of the persons appointed by the Senate Rules Committee shall be actual consumers of services under the Older Americans Act, as amended, including low-income, and minority older persons, at least in proportion to the number of minority older persons in the state, with the remainder being broadly representative of the major public and private agencies and organizations in the state who are experienced in or have

demonstrated particular interest in the special needs of the elderly. The Legislature intends that membership on the commission be selected to assure that every region of the state is represented.

SEC. 2. Section 9200.5 of the Welfare and Institutions Code is amended to read:

9200.5. Appointees to the commission shall serve at the pleasure of the appointing power within the limitations for terms provided in this section. The terms of office of the members of the commission shall commence on January 1, 1977, and the members shall enter upon their duties on that date and shall classify their terms of office by lot so that eight of the terms of such appointed members shall expire on January 1, 1978; and eight of the terms of such appointed members shall expire on January 1, 1979; and nine of the terms of such appointed members shall expire on January 1, 1980. After the initial classification of terms, the term of office of members of the commission shall be three years. Members shall not serve more than two terms.

At the first meeting of the commission, and annually thereafter, the members shall select one of their members to serve as chairperson and one of their members to serve as vice chairperson.

SEC. 3. Section 9201 of the Welfare and Institutions Code is amended to read:

9201. The duties and functions of the commission shall be to:

(a) Serve as the principal advocate body in the state on behalf of older persons in areas affecting such persons, including, but not limited to, advisory participation in the consideration of all regulations made by state departments affecting licensing, inspection and rate setting for nursing homes and like facilities, housing for the elderly, home health services, educational, and income maintenance programs;

(b) Advise the director concerning basic policies and priorities with respect to the development and operation of programs and activities related to the purposes of this division, including Titles III and VII of the Older Americans Act, as amended, in order to stimulate the most effective use of existing resources and available services for the elderly;

(c) Prepare, publish and disseminate materials dealing with the well-being of senior adults;

(d) Meet as a commission monthly as follows in order to study all aspects of the problems of aging:

(1) At least six of the meetings shall be with the director.

(2) At least six of the meetings shall be held in various parts of the state.

(e) Hold hearings throughout the state, in order to advise the Governor, Legislature and the department on action needed to solve problems of aging, and in order to insure that the needs and wants of older consumers of services referred to in this division are duly considered;

(f) Within budgetary limits, hire an executive secretary and such

staff as may be necessary for the commission to fulfill its duties; and

(g) Perform other duties as may be assigned to it by statute or regulation.

SEC. 4. Section 9202 of the Welfare and Institutions Code is amended to read:

9202. The commission shall prepare and render annually a written report to the Governor of its activities and its recommendations, which shall reflect the advice of California's senior citizens, including but not limited to, the area agency on aging advisory committees and each nutrition program advisory committee under Titles III and VII of the Older Americans Act, as amended.

SEC. 5. Section 9205 of the Welfare and Institutions Code is amended to read:

9205. Members of the commission shall be reimbursed for their actual and necessary travel and other expenses incurred in the performance of their official duties.

CHAPTER 1056

An act to amend Section 42311 of, to amend and renumber Section 41512 of, and to add Section 41512 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 41512 of the Health and Safety Code, as added by Chapter 957 of the Statutes of 1975, is amended and renumbered, to read:

41513. Any violation of any provision of this part, or of any order, rule, or regulation of the state board or of any district, may be enjoined in a civil action brought in the name of the people of the State of California, except that the plaintiff shall not be required to allege facts necessary to show, or tending to show, lack of adequate remedy at law or to show, or tending to show, irreparable damage or loss.

SEC. 2. Section 41512 is added to the Health and Safety Code, to read:

41512. (a) The state board or a district board may adopt, by regulation, after a public hearing, a schedule of fees not exceeding the estimated cost of planning, preliminary evaluation, sampling, sample analysis, calculations, and report preparation with respect to samples of emissions secured from air pollution emission sources. The failure to pay any such fee in a timely manner shall constitute grounds for the revocation or suspension, and may be made a

condition for the issuance, of any permit. Any such revocation or suspension shall be in accordance with the procedures set forth in Sections 42304 to 42309, inclusive.

(b) Nothing contained in this part shall be construed to include or restrict the use of construction equipment such as portable sandblasting equipment or portable spraying or spray-painting equipment, or any similar equipment, used on a temporary basis in connection with new construction, or on maintenance or repairs of existing structures, machinery, or equipment, provided such equipment is operated in accordance with the requirements of this division and applicable district and state board rules and regulations.

SEC. 3. Section 42311 of the Health and Safety Code is amended to read:

42311. (a) A district board may adopt, by regulation, a schedule of fees not exceeding the estimated cost of issuing permits and inspection, including but not limited to source testing, pertaining to such issuance to be paid for the issuance of permits. Every person applying for a permit shall pay the fee required by the schedule.

(b) Except as provided in Section 42313, all such fees shall be paid to the district treasurer to the credit of the district.

CHAPTER 1057

An act to add Section 1127 to the Labor Code, relating to collective bargaining agreements.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 1127 is added to the Labor Code, to read:

1127. (a) Where a collective bargaining agreement between an employer and a labor organization contains a successor clause, such clause shall be binding upon and enforceable against any successor employer who succeeds to the contracting employer's business until the expiration date of the agreement stated in the agreement. No such successor clause shall be binding upon or enforceable against any successor employer for more than three years from the effective date of the collective bargaining agreement between the contracting employer and the labor organization.

(b) As used in this section, "successor employer" means any purchaser, assignee, or transferee of a business the employees of which are subject to a collective bargaining agreement, if such purchaser, assignee, or transferee conducts or will conduct substantially the same business operation, or offer the same service, and use the same physical facilities, as the contracting employer.

(c) This section shall not apply to a receiver or trustee in

bankruptcy of any contracting employer who has gone into receivership or bankruptcy, or to any employer who acquires a business from a receiver or trustee in bankruptcy, or to any employer which is a public entity, or to any employer who is subject to the National Labor Relations Act, Agricultural Labor Relations Act of 1975, or the Railway Labor Act.

(d) An employer who is a party to a collective bargaining agreement containing a successor clause has the affirmative duty to disclose the existence of such agreement and such clause to any successor employer. Such disclosure requirement shall be satisfied by including in any contract of sale, agreement to purchase, or any similar instrument of conveyance, a statement that the successor employer is bound by such successor clause as provided for in the collective bargaining agreement.

CHAPTER 1058

An act to amend Section 18809 of the Revenue and Taxation Code, relating to personal income tax withholding.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976]

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

SECTION 1. Section 18809 of the Revenue and Taxation Code is amended to read:

18809. For purposes of this chapter, the term "employee" means a resident or a nonresident individual who receives remuneration for services performed within this state and includes an officer, employee, or elected official of the United States, a state, territory, or any political subdivisions thereof, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

Whether an individual provides equipment in the performance of services for remuneration shall not be considered in a determination of whether that individual is an employee.

SEC. 2. The amendments to Section 18809 of the Revenue and Taxation Code by this act shall apply to wages paid after December 31, 1976.

CHAPTER 1059

An act to add Sections 3061.5 and 3061.6 to the Civil Code, relating to liens.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 3061.5 is added to the Civil Code, to read:

3061.5. (a) Except as provided in subdivision (d), any person who as an employee shall, by his or her own labor, do or perform any work harvesting or transporting harvested crops or farm products as defined in Section 55403 of the Agricultural Code which are owned and grown or produced by a limited partnership as defined in Section 15501 of the Corporations Code, shall have a lien upon any and all of such severed crops or severed farm products or proceeds from their sale for the value of such labor done up to a maximum of earnings for two weeks. Such liens shall lie whether such work was done at the instance of the owner who is the grower or producer of severed crops or severed farm products or of any other person acting by or under the owner's authority, directly or indirectly, as contractor or otherwise; and every contractor, subcontractor, or other person having charge of the harvesting or transporting of such severed crops or severed farm products shall be held to be such agent of the owner for such purposes of this section.

(b) The liens provided for in this section shall attach from the date of the commencement of such work or labor, and shall be preferred liens, prior in dignity to all other liens, claims, or encumbrances. Except as provided in subdivisions (a) and (c) they shall not be limited as to amount by any contract price agreed upon between the owner who is the grower or producer of such severed crops or severed farm products and any contractor, but the several liens shall not in any case exceed in amount the reasonable value of the labor done, nor the price agreed upon for the same between the claimant and his or her employer. In no event, where the claimant was employed by a contractor, or subcontractor, shall the lien extend to any labor not contemplated by, covered by, or reasonably necessary to the execution of, the original contract between the contractor and the owner who is the grower or producer of severed crops or severed farm products and of which such contract, or modification thereof, the claimant shall have had actual notice before the performance of such labor.

(c) The maximum liability of severed crops, severed farm products or the proceeds from their sale subject to liens under this section shall be limited to the lesser of actual proved claims or 25 percent of the fair market value of the severed crops, severed farm products, or 25 percent of the proceeds after their sale.

(d) No person shall have a lien if the owner who is the grower or producer of the severed crops, severed farm products, or their proceeds, who otherwise would be subject to a lien pursuant to subdivision (a), either satisfies directly, or requires a person or entity hired or used to furnish labor in connection with harvesting or transporting such severed crops, to satisfy any one or more of the following conditions prior to the harvest and for 45 days after its completion:

(1) Deposits with the Labor Commissioner a bond of a surety company authorized to do business within the state with the Labor Commissioner in an amount and form acceptable to him or her, which is conditioned upon the payment of all wages found to be due and unpaid in connection with such operations under any provision of this code, or

(2) Deposits with the Labor Commissioner a time certificate of deposit indicating that the grower or producer has deposited with a bank or trust company cash payable to the order of the Labor Commissioner sufficent to pay the wages of every person employed in connection with such operations for such period.

(e) A buyer in the ordinary course of business, as defined in subdivision (9) of Section 1201 of the Commercial Code, shall take free of any security interest created by this section, notwithstanding the fact that the lien is perfected and the buyer knows of its existence.

SEC. 2. Section 3061.6 is added to the Civil Code, to read:

3061.6. (a) The lien created by Section 3061.5 shall continue in force for a period of 45 days from the time the person claiming such lien shall have ceased to do or perform the work for which such lien is claimed, and such lien shall cease at the expiration of the 45 days unless the claimant, his or her assignee or successor in interest, files a claim with the Labor Commissioner or brings suit to foreclose the lien in which case the lien continues in force until the claim filed with the Labor Commissioner or the lien foreclosure suit is finally determined and closed. If a claim is filed with the Labor Commissioner, the Labor Commissioner shall act upon and finally determine such claim within 180 days after filing. In case such proceedings are not prosecuted to trial within two years after the commencement thereof, the court may in its discretion dismiss the same for want of prosecution.

(b) Upon filing a claim with the Labor Commissioner, the Labor Commissioner, if the owner who is the grower or producer has failed to satisfy the conditions of subdivision (d) of Section 3061.5, shall determine whether or not such owner of the severed crops, severed farm products, or their proceeds is capable financially of satisfying such claim. For purposes of this determination, it shall be proper for the Labor Commissioner after investigation to take into account the potential liability faced by such owner of such severed crops, severed farm products, or their proceeds. If the Labor Commissioner determines that a lien is necessary to protect the interest of

claimants, the Labor Commissioner shall file such lien on the crop, the severed farm product, or their proceeds and notify, in writing, the owner and notify, in writing, all persons who have filed financing statements on the crop, the farm product, or their proceeds pursuant to the provisions of the Commercial Code.

(c) The plaintiff in any such lien foreclosure suit, at the time of issuing the summons or at any time afterwards, may have the severed crops or severed farm products or proceeds from their sale upon which such lien subsists attached, as provided in this code and Title 6.5 (commencing with Section 488.010) of Part 2 of the Code of Civil Procedure, upon delivering to the clerk an affidavit, by or on behalf of the plaintiff, showing that: (1) the plaintiff, or his assignor or predecessor in interest, performed labor in harvesting or transporting the severed crops or severed farm products or both; (2) that such labor has not been paid for; (3) that the sum for which the attachment is asked does not exceed the lesser of the reasonable value of the services rendered or if earnings, does not exceed the lesser of two weeks unpaid earnings or reasonable value of actual services rendered, or 25 percent of the fair market value of the severed crop or severed farm product; and (4) that the attachment is not sought and the action is not brought to hinder, delay or defraud any creditor or creditors of any defendant.

(d) Any number of persons claiming liens under this section and Section 3061.5 may join in the same action and when separate actions are commenced, the court may consolidate them. If after sale of the property subject to the liens provided for in this section and Section 3061.5, under the judgment or decree of foreclosure of such lien or liens, there is a deficiency of proceeds, the proceeds shall be divided pro rata among the lien claimants whose liens are established, regardless of the order in which the liens were created or the order in which the suits to foreclose same were commenced. Judgment for the deficiency may be docketed against the party personally liable therefor and his sureties.

(e) Nothing contained in this section or Section 3061.5 shall be construed to impair or affect the right of any person to whom any debt may be due for work done, to maintain a personal action to recover such debt against the person liable therefor, or his sureties, either in connection with the lien suit or in a separate action. The person bringing such personal action may take out a separate attachment therefor, notwithstanding his or her lien, and in his or her affidavit to procure an attachment need not state that his or her demand is not secured by a lien, and the judgment, if any, obtained by the plaintiff in such personal action shall not be construed to impair or merge any lien held by the plaintiff under this section or Section 3061.5; provided that any money collected on the judgment shall be credited on the amount of such lien in any action brought to enforce the same, in accordance with the provisions of this section.

(f) If the lien has attached to perishable goods, the lienholder may, during the period for which the lien is in effect and prior to the

filing of a foreclosure suit, obtain a court order for the sale of such perishable goods pursuant to the provisions of Section 488.530 of the Code of Civil Procedure; provided, however, that in the event that such perishable crop is subject in whole or in part to a valid marketing agreement which is in force between the owner who is the grower or producer and an agricultural marketing cooperative organized under the Food and Agricultural Code or similar laws of other states, the agricultural marketing cooperative may purchase or otherwise take possession or custody of such crop or portion thereof according to the terms of the marketing agreement. Any moneys due and payable to such owner who is the grower or producer in return for such crop shall be paid by the agricultural marketing cooperative to the court.

SEC. 3. This act shall become operative on July 1, 1977, and shall not affect the priority of any security interest perfected prior to that date.

CHAPTER 1060

An act to amend Sections 218, 226, 2615.6, 17069, 19501.5, 19502, 19504, 19521, 19522, 19523, and 19531 of, and to add Sections 19508 and 19523.5 to, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 20, 1976.]

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

SECTION 1. Section 218 of the Revenue and Taxation Code is amended to read:

218. The homeowners' property tax exemption is in the amount of the assessed value of the dwelling specified in this section, as authorized by subdivision (k) of Section 3 of Article XIII of the Constitution.

For the 1972–1973 fiscal year, such exemption shall be in the amount of seven hundred fifty dollars ($750) of the assessed value of the dwelling.

For the 1973–1974 fiscal year and fiscal years thereafter, such exemption shall be in the amount of one thousand seven hundred fifty dollars ($1,750) of the assessed value of the dwelling.

The exemption does not extend to property which is rented, vacant, under construction on the lien date, or which is a vacation or secondary home of the owner or owners, nor does it apply to property on which an owner receives the veteran's exemption. "Owner" includes a person purchasing the dwelling under a contract of sale or who holds shares or membership in a cooperative housing

corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling. As used in this section, "dwelling" shall include:

(a) A single-family dwelling occupied by an owner thereof as his principal place of residence on the lien date.

(b) A multiple-dwelling unit occupied by an owner thereof on the lien date as his principal place of residence.

(c) A condominium occupied by an owner thereof as his principal place of residence on the lien date.

(d) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in paragraphs (1) and (2) of subdivision (a) of Section 17265, as his principal place of residence on the lien date. Each exemption allowed pursuant to this subdivision shall be deducted from the total assessed valuation of the cooperative housing corporation. The exemption shall be taken into account in apportioning property taxes among owners of share or membership interests in the cooperative housing corporations so as to benefit those owners who qualify for the exemption.

"Dwelling" means a building, structure or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section a two-dwelling unit shall be considered as two separate single-family dwellings.

The exemption provided for in subdivision (k) of Section 3 of Article XIII of the Constitution shall first be applied to the building, structure or other shelter and the excess, if any, shall be applied to any land on which it may be located.

In view of the pending litigation concerning the eligibility for the homeowners' property tax exemption of persons receiving public assistance, it is not intended by the amendment of this section at the 1975–76 session of the Legislature that any inference be drawn from it in such litigation.

SEC. 2. Section 226 of the Revenue and Taxation Code, as amended by Chapter 335 of the Statutes of 1976, is amended to read:

226. The validity of any ad valorem property tax assessment on imported goods, heretofore or hereafter imposed, levied or collected with respect to tax years prior to the 1976–77 tax year, shall be determined pursuant to statutory and case law in effect prior to the decision in Michelin v. Wages, (1976), 46 L. Ed. 2d 495, except that for any assessment made prior to January 14, 1976, the court may, if the circumstances warrant and the taxing authority demonstrates that it would be equitable to do so, follow the decision in Michelin v. Wages.

SEC. 3. Section 2615.6 of the Revenue and Taxation Code is amended to read:

2615.6. (a) When the county sends to any person a tax bill, it shall be accompanied by a notice regarding the additional property tax relief available under the Gonsalves-Deukmejian-Petris Senior

Citizens Property Tax Relief Act. The text of this latter notice shall be prepared by the Franchise Tax Board and shall include the eligibility requirements under the act as to age and income limitations, the filing period for claims, and where additional information concerning the relief can be obtained. The notice shall also state that the relief is granted under the Gonsalves-Deukmejian-Petris Senior Citizens Property Tax Relief Act.

SEC. 4. Section 17069 of the Revenue and Taxation Code, as amended by Chapter 956 of the Statutes of 1975, is amended to read:

17069. (a) A special tax credit at the percentage provided in subdivision (b) or (c) shall be allowed against the amount of "net tax" (as defined in Section 17069.5), with respect to taxable years beginning after December 31, 1972, and before January 1, 1974. If the taxpayer has more than one taxable year beginning after December 31, 1972, and before January 1, 1974, such taxpayer shall be allowed the credit provided by this section only with respect to the taxable year which covers the most number of months.

(b) In the case of a single person, or a married person filing a separate return, the special tax credit percentage shall be as follows:

If the adjusted gross income is:	The percentage of credit is:
$4,000 or less	100%
Over $4,000 but not over $7,500	35
Over $7,500 but not over $10,000	30
Over $10,000 but not over $12,500	25
Over $12,500	20

(c) In the case of a head of household, a surviving spouse (as defined in Section 17046), or a married couple filing a joint return, the special tax credit percentage shall be as follows:

If the adjusted gross income is:	The percentage of credit is:
$8,000 or less	100%
Over $8,000 but not over $15,000	35
Over $15,000 but not over $20,000	30
Over $20,000 but not over $25,000	25
Over $25,000	20

(d) For taxable years beginning on or after January 1, 1974, and ending on or before November 30, 1976, there shall be allowed against the amount of "net tax" (as defined in Section 17069.5) a special tax credit of 100 percent (1) for a single person or a married person filing a separate return with an adjusted gross income of four thousand dollars ($4,000) or less, or (2) for a head of household, a surviving spouse (as defined in Section 17046), or a married couple filing a joint return with an adjusted gross income of eight thousand dollars ($8,000) or less.

(e) For taxable years beginning on or after January 1, 1976, a

nonrefundable special tax credit in the amount provided in paragraph (1) or (2) shall be allowed as follows:

(1) In the case of a single person, or a married person filing a separate return, the special tax credit shall be forty dollars ($40) if the adjusted gross income of the taxpayer is five thousand dollars ($5,000) or less. If the adjusted gross income exceeds five thousand dollars ($5,000) for the taxable year, the amount of the special tax credit shall be reduced by fifty cents ($0.50) for each one dollar ($1) of such income in excess of five thousand dollars ($5,000).

(2) In the case of a head of household, a surviving spouse, or a married couple filing a joint return, the special tax credit shall be eighty dollars ($80) if the adjusted gross income of the taxpayer is ten thousand dollars ($10,000) or less. If the adjusted gross income of the taxpayer exceeds ten thousand dollars ($10,000) for the taxable year, the amount of the special tax credit shall be reduced by fifty cents ($0.50) for each one dollar ($1) of such income in excess of ten thousand dollars ($10,000).

(3) The special tax credit set forth in this subdivision shall not be available to a single person or a married person filing a separate return whose total income (as defined in subdivision (j)) exceeds ten thousand dollars ($10,000) or a head of household, a surviving spouse, or a married couple filing a joint return whose total income exceeds twenty thousand dollars ($20,000).

(4) The special tax credit set forth in this subdivision shall not be available to any taxpayer required to pay the tax on preference income imposed in Chapter 2.1 (commencing with Section 17062), during the taxable year.

(f) If, after the tax credit provided by this section is claimed, the Franchise Tax Board determines that the taxpayer's tax liability is more or less than the amount shown on the return, a corresponding adjustment shall be made by the Franchise Tax Board for the special tax credit.

(g) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part or to nonresidents as of the close of the taxable year for which the credit is claimed.

(h) For the purposes of this section, the adjusted gross income of a nonresident means gross income from sources both within and without this state less the deductions allowed by Section 17072.

(i) For the purposes of this section, total income means adjusted gross income, as defined in Section 17072, increased by the adjustments to income provided in Section 17138 (relating to sick pay), Section 17266 (relating to moving expenses), Sections 17202 to 17202.3, inclusive (relating to employee business expenses), Sections 17146 to 17147, inclusive (relating to military exclusion), Section 17524 (relating to self-employed retirement plan deductions), and subdivision (h) of Section 17072 (relating to forfeited interest penalty).

SEC. 5. Section 19501.5 of the Revenue and Taxation Code is amended to read:

19501.5. "Income" means the sum of adjusted gross income as used for purposes of the California Personal Income Tax Law, including items of income which would otherwise be excluded by Article 3 (commencing with Section 17131) of Chapter 3 of Part 10 of this division (other than transfers by gift or inheritance between members of the household), net income from sources outside the state, alimony, support money, cash public assistance and relief, the gross amount of any pensions or annuities including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits received under Title XVIII), all benefits received under state unemployment insurance laws and veterans disability payments, all interest received from the federal government or any of its instrumentalities, all interest received from the State of California or any of its political subdivisions, realized capital gains, workers' compensation and the gross amount of loss of time insurance benefits, life insurance benefits, life insurance proceeds, and gifts of cash or property (other than transfers by gift between members of the household) in excess of a value of three hundred dollars ($300). Income shall be reduced by realized capital losses, without limitation. It does not include surplus food or other relief in kind supplied by a governmental agency or assistance received under this part. Total income shall be determined for the calendar year (or approved fiscal year ending within such calendar year) which ends within the fiscal year for which the property taxes have been assessed on the claimant's homestead or presumed to be levied on his rented residence.

SEC. 6. Section 19502 of the Revenue and Taxation Code is amended to read:

19502. In the case of an owner-claimant, "household" includes the claimant and all other persons, except bona fide renters, minors, or students (as defined in paragraph (5) of subdivision (c) of Section 17054), whose principal place of residence is the homestead of the claimant. In the case of a renter-claimant, "household" includes the claimant, his or her spouse and all other persons who reside on the premises, except renters, minors, or students (as defined in paragraph (5) of subdivision (c) of Section 17054), and owners of the same principal place of residence.

SEC. 7. Section 19504 of the Revenue and Taxation Code is amended to read:

19504. (a) "Homestead" means a dwelling and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned by the claimant, the claimant and his spouse, or by the claimant and some other individual. It shall also include premises occupied by reason of ownership in a cooperative housing corporation (as defined in Section 17265), mobilehomes which are assessed as realty for local property tax purposes and the land on which situated, houseboats, and other similar living accommodations, as well as a part of a multidwelling or multipurpose building and a part of the land upon which it is built. It shall also

include premises occupied by reason of the claimant's ownership of a dwelling located on land owned by a nonprofit incorporated association, of which the claimant is a member, when such association requires the claimant to pay a pro rata share of the property taxes levied against the association's land. It shall also include premises occupied by a claimant wherein he is required by law to pay a property tax by reason of his ownership (including a possessory interest) in the dwelling, the land, or both. (Owned includes a vendee in possession under a land sale contract and of one or more joint tenants or tenants in common.) It includes personal property such as furniture, furnishings or appliances. Except as provided in Section 19507, for purposes of this section, ownership must be evidenced by a duly recorded document.

(b) In the case of a renter-claimant, "rented residence" means premises rented and occupied by the claimant as his principal place of residence during the fiscal year for which assistance is claimed. The term "rented residence" shall not include:

(1) Premises which are exempt from property taxation.

(2) Premises which are not located in this state. For the purposes of this subdivision, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome.

For the purposes of this subdivision the term "rent" means rent paid at arms length solely for the right of occupancy of a homestead. At least fifty dollars ($50) per month must be paid by each renter-claimant for a rented premise in order for the renter to be a qualified renter-claimant.

SEC. 8. Section 19508 is added to the Revenue and Taxation Code, to read:

19508. When a "rented residence" as defined in subdivision (b) of Section 19504 is rented and occupied by the claimant as his principal place of residence for less than 12 months during the fiscal year for which assistance is claimed, the amount of assistance as provided in Section 19523.5 shall be the percentage of 12 months that such "rented residence" was rented and occupied by the claimant as his principal place of residence during the fiscal year.

SEC. 9. Section 19521 of the Revenue and Taxation Code is amended to read:

19521. (a) Subject to the limitations provided in this part, a claimant may, to the extent provided in Section 19523 or 19523.5, whichever is applicable, file with the Franchise Tax Board, pursuant to Article 3 (commencing with Section 19531) of this part, a claim for assistance from the State of California of a sum equal to a percentage of the property taxes accrued and paid by the claimant on his homestead or a sum equal to the percentage of the applicable statutory property tax equivalent under Section 19523.5 with respect to a claimant renting his residence.

(b) When a claimant owns his homestead for only part of a year

and rents the same or a different homestead for part of the same year, he may elect to receive the amount of assistance provided under Section 19523 or under Section 19523.5, but shall not receive assistance under both sections.

SEC. 10. Section 19522 of the Revenue and Taxation Code is amended to read:

19522. (a) The Franchise Tax Board, pursuant to the provisions of Article 3 (commencing with Section 19531) of this part, shall provide assistance to the claimant based on a percentage of the property tax accrued and paid by the claimant on the homestead as provided in Section 19523 or the statutory property tax equivalent pursuant to Section 19523.5. In case of an owner-claimant, the assistance shall be equal to the applicable percentage of property taxes paid on the assessed value of the homestead up to and including eight thousand five hundred dollars ($8,500). No assistance shall be allowed for property taxes paid on that portion of assessed value of a homestead exceeding eight thousand five hundred dollars ($8,500). No assistance shall be provided if the amount of the assistance claim is five dollars ($5) or less.

(b) For purposes of allowing assistance provided for by this section:

(1) (A) Only one owner-claimant from one household each year shall be entitled to assistance under this part. When two or more individuals of a household are able to meet the qualifications for an owner-claimant, they may determine who the owner-claimant shall be. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(B) When two or more individuals pay rent for the same premises and each individual meets the qualifications for a renter-claimant, each qualified individual shall be entitled to assistance under this part.

For the purposes of this subparagraph, a husband and wife residing in the same premises shall be presumed to be one renter.

(2) Except as provided in paragraph (3), the right to file a claim shall be personal to the claimant and shall not survive his death; however, when a claimant dies after having filed a timely claim, the amount thereof may be disbursed to the surviving spouse and if no surviving spouse, to any other member of the household who is a qualified claimant. If there is no surviving spouse or otherwise qualified claimant, the claim shall be disbursed to any other member of the household. In the event two or more individuals qualify for payment as either an otherwise qualified claimant or a member of the household, they may determine which of them will be paid. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(3) If, after January 1 of the property tax fiscal year for which a claim may be filed, a claimant dies without filing a timely claim, a claim on behalf of such claimant may be filed by the surviving spouse within the filing period prescribed in subdivision (a) or (b) of Section 19532.

SEC. 11. Section 19523 of the Revenue and Taxation Code, as amended by Chapter 161 of the Statutes of 1976, is amended to read:

19523. The amount of assistance for a claimant owning his homestead shall be based on claimant's household income for the period set forth in Section 19501.5.

The percentage of assistance for which each claimant owning his homestead shall be eligible shall be based on the following scale:

If the total household income (as defined in this part) is not more than:	The percentage of tax on the first $8,500 of value (as determined for tax purposes) used to provide assistance is:
$3,000	96%
3,200	94
3,400	92
3,600	90
3,800	88
4,000	86
4,200	84
4,400	82
4,600	80
4,800	78
5,000	76
5,200	73
5,400	69
5,600	65
5,800	61
6,000	57
6,200	53
6,400	49
6,600	45
6,800	41
7,000	37
7,200	34
7,400	31
7,600	28
7,800	25
8,000	22
8,200	20
8,400	18
8,600	16
8,800	14
9,000	12
9,500	10
10,000	8
10,500	7

02972 288390 482

11,000	6
11,500	5
12,000	4

SEC. 12. Section 19523.5 is added to the Revenue and Taxation Code, to read:

19523.5. The amount of assistance for a claimant renting his residence shall be based on the claimant's household income for the period set forth in Section 19501.5.

The percentage of assistance for which each claimant renting his residence shall be eligible shall be based on the following scale:

If the total household income (as defined in this part) is not more than:	The statutory property tax equivalent is:	The percentage of the statutory property tax equivalent used to provide assistance is:
$1,400	$220	96%
1,600	220	92
1,800	220	87
2,000	220	81
2,200	220	75
2,400	220	69
2,600	220	63
2,800	220	57
3,000	220	51
3,200	220	45
3,400	220	39
3,600	220	33
3,800	220	27
4,000	220	21
4,250	220	16
4,500	220	12
4,750	220	8
5,000	220	4

SEC. 13. Section 19531 of the Revenue and Taxation Code is amended to read:

19531. Each claimant applying for assistance under Article 2 (commencing with Section 19521) of this part shall file a claim under penalty of perjury with the Franchise Tax Board on a form supplied by such board. The claim shall contain:

(a) Evidence acceptable to the Franchise Tax Board that the claimant was a resident of California and 62 years of age or older on or before the first day of January preceding the end of the fiscal year for which the claim is filed.

(b) A statement showing the household income for the period set forth in Section 19501.5.

(c) If the claimant owns his homestead, a statement describing the property on which the claim is based and showing at least the

assessed value of the homestead; the size and nature of the homestead; together with the tax bill. If the claimant rents his residence, a statement describing the rented premises and showing the name and address of the landlord, or landlords, the amount of rent paid per month, the total rent paid during the fiscal year for which assistance is claimed, and any other information required by the Franchise Tax Board to administer this part. No interest shall be allowed on any payment made to any claimant pursuant to this part.

If a claimant submits a statement containing the essential data set forth in this section under penalty of perjury within the period set forth in Section 19532, the Franchise Tax Board shall compute the amount of assistance and authorize payment. The amount of any assistance otherwise payable under this part may be applied by the Franchise Tax Board against any liability due from the claimant under any law administered by the Franchise Tax Board.

SEC. 14. The provisions of this act affecting changes in the Senior Citizens Property Tax Assistance Law pertaining to owner-claimants and renter-claimants shall be applied to claims for assistance for the 1976–77 fiscal year and fiscal years thereafter.

SEC. 15. To provide notice of eligibility to persons who have previously been refused the homeowners' exemption, the Department of Benefit Payments shall cause a notice of the eligibility criteria, regular and late filing periods, and means of applying for homeowners' exemption to be enclosed with the next regular mailing of Medi-Cal identification cards occurring 60 days after the operative date of this section.

SEC. 16. 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. 17. There is hereby appropriated to the Controller from the State General Fund _____ dollars ($_____) to make the payments required by this act. Out of this sum there shall be allocated by the Controller to the Franchise Tax Board _____ dollars ($_____) to carry out the provisions of this act.

SEC. 18. 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 persons receiving public assistance may be eligible for the homeowners exemption with respect to the 1976–77 fiscal year and fiscal years thereafter, this act must go into effect immediately.

CHAPTER 1061

An act to add Section 11116.10 to the Penal Code, relating to crimes.

[Approved by Governor September 20, 1976 Filed with Secretary of State September 21, 1976]

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

SECTION 1. Section 11116.10 is added to the Penal Code, to read:

11116.10. (a) Upon the request of a victim of a crime, the prosecuting attorney shall, within 60 days of the final disposition of the case, inform the victim by letter of such final disposition. Such notice shall state the information described in Section 11116.

(b) As used in this section, "victim" means any person alleged or found, upon the record, to have sustained physical or financial injury to person or property as a direct result of the crime charged.

(c) As used in this section, "final disposition," means an ultimate termination of the case at the trial level including, but not limited to, dismissal, acquittal, or imposition of sentence by the court, or a decision by the prosecuting attorney, for whatever reason, to not file the case.

(d) This section shall not apply in any case where the offender or alleged offender is a minor unless such minor has been declared not a fit and proper subject to be dealt with under the juvenile court law.

(e) This section shall not apply to any case in which a disposition was made prior to the effective date of this section.

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 1062

An act relating to senior citizens' property tax assistance, and making an appropriation therefor, to take effect immediately.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. The sum of three million five hundred thousand dollars ($3,500,000) is hereby appropriated from the General Fund in augmentation of Item 88, Budget Act of 1976, for the purpose of providing senior citizens' property tax assistance.

SEC. 2. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1063

An act to amend Section 65302 of the Government Code, to amend Sections 39010, 39011, 39013, 39033, 39035, 39036, 39601, 39602, 39605, 39806, 40002, 40158, 40274, 40301, 40313, 40375, 40411, 40412, 40449, 40500, 40708, 40807, 40824, 40826, 40900, 41500, 41503, 41504, 41505, 41507, 41511, 41603, 41701, 41801, 41803, 41852, 42300, 42310, 42351, 42352, 42401, 42704, 42708, 43001, 43003, 43006, 43012, 43013, 43102, 43204, 43206, 43208, 43651, and 44501 of, to amend the heading of Article 5 (commencing with Section 41950) of Chapter 3 of Part 4 of Division 26 of, to amend and renumber Sections 39068.6, 39068.7, 39615.5, 39616.5, 39620.7, 39850.1, 40222, 40223, 40224, 40225, 40226, 40227, and 43014 of, to add Sections 41864, 42303.5, 42400.5, 43014, and 43656.5 to, and to repeal Sections 24354.11, 39083.3, 39090, 39126, 39177, 39177.1, 39295.6, 39601, and 43205 of, the Health and Safety Code, and to amend Section 11519 of the Vehicle Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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 46050.1 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 5db and shall continue down to 60db. 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 24354.11 of the Health and Safety Code is repealed.

SEC. 3. Section 39010 of the Health and Safety Code is amended to read:

39010. Unless the context requires otherwise, a definition set forth in this chapter shall govern the construction of this division, unless and until rules and regulations are adopted by the state board pursuant to Section 39601 which revise such definition.

SEC. 4. Section 39011 of the Health and Safety Code is amended to read:

39011. (a) "Agricultural burning" means open outdoor fires used in agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or disease or pest prevention.

(b) "Agricultural burning" also means open outdoor fires used in the operation or maintenance of a system for the delivery of water for the purposes specified in subdivision (a). Section 41807 shall not apply to such burning under this subdivision.

SEC. 4.5. Section 39013 of the Health and Safety Code is amended to read:

39013. "Air contaminant" or "air pollutant" means any discharge, release, or other propagation into the atmosphere and includes, but is not limited to, smoke, charred paper, dust, soot, grime, carbon, fumes, gases, odors, particulate matter, acids, or any combination thereof.

SEC. 5. Section 39033 of the Health and Safety Code is amended to read:

39033. "Heavy-duty" means having a manufacturer's maximum gross vehicle weight rating of 6,001 or more pounds.

SEC. 6. Section 39035 of the Health and Safety Code is amended to read:

39035. "Light-duty" means having a manufacturer's maximum gross vehicle weight rating of under 6,001 pounds.

SEC. 7. Section 39036 of the Health and Safety Code is amended to read:

39036. "Limited-production vehicle" means a new 1975 or 1976 model year light-duty motor vehicle that is manufactured or sold in this state in quantities of less than 210 units annually.

SEC. 8. Section 39068.6 of the Health and Safety Code is amended and renumbered to read:

41954. (a) The state board shall, by March 1, 1976, adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage, transport, and transfer operations, with performance standards which the state board determines are reasonable and necessary to achieve or maintain any applicable ambient air quality standard.

(b) The state board shall certify any gasoline vapor control system upon its determination that the system, if properly installed and maintained, will meet the requirements enumerated in subdivision (a). The state board shall specify the specifications used for issuing such certification. After the state board has certified such a system, if circumstances beyond the control of the state board cause the system to no longer meet the specified certification specifications, the state board may, as appropriate, revoke or modify its prior certification.

(c) The state board may test, or contract for the testing of, gasoline vapor control systems in order to certify such systems.

(d) The state board may charge a reasonable fee for certification, not to exceed the state board's estimated costs therefor. Payment of such fee may be made a condition of certification.

(e) On or after July 1, 1976, no person shall install a gasoline vapor control system unless it has been certified by the state board.

(f) To the extent authorized by other provisions of law, any district may adopt stricter procedures and performance standards than those adopted by the state board pursuant to subdivision (a).

SEC. 9. Section 39068.7 of the Health and Safety Code is amended and renumbered to read:

43835. (a) The state board shall, by March 1, 1976, adopt specifications for the fill pipes and openings of motor vehicle fuel tanks to ensure that the size, design, and location of the fill pipe and opening permit adequate access to and interfacing with gasoline-dispensing nozzles for the purpose of vapor control.

(b) No new 1977 or later model year gasoline-powered motor vehicle may be sold, offered for sale, or registered in this state unless such vehicle is in compliance with the specifications adopted by the state board pursuant to subdivision (a).

The state board may exempt from such specifications those classifications of motor vehicles for which the state board determines

the specifications are technologically infeasible.

The state board also may waive the provisions of this subdivision for any 1977 model year gasoline-powered motor vehicle, provided that the state board makes a finding, based upon evidence presented by the manufacturer of such vehicle, that inadequate lead time exists for any required vehicle redesign. The state board may make such waiver applicable only to specified body styles of such a vehicle.

SEC. 10. Section 39083.3 of the Health and Safety Code is repealed.

SEC. 11. Section 39090 of the Health and Safety Code is repealed.

SEC. 12. Section 39126 of the Health and Safety Code is repealed.

SEC. 13. Section 39177 of the Health and Safety Code is repealed.

SEC. 14. Section 39177.1 of the Health and Safety Code is repealed.

SEC. 15. Section 39295.6 of the Health and Safety Code is repealed.

SEC. 16. Section 39601 of the Health and Safety Code, as amended by Chapter 1165 of the Statutes of 1975, is repealed.

SEC. 16.5. Section 39601 of the Health and Safety Code, as added by Chapter 957 of the Statutes of 1975, is amended to read:

39601. (a) The state board shall adopt standards, rules, and regulations in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board by this division and by any other provision of law.

(b) The state board, by rules and regulations, may revise the definitions of terms set forth in Chapter 2 (commencing with Section 39010) of Part 1 in order to conform such definitions to federal laws and rules and regulations.

SEC. 17. Section 39602 of the Health and Safety Code is amended to read:

39602. The state board is designated the air pollution control agency for all purposes set forth in federal law.

The state board is designated as the state agency responsible for the preparation of the state implementation plan required by the Clean Air Act (42 U.S.C., Sec. 1857, et seq.) and, to this end, shall coordinate the activities of all districts necessary to comply with that act.

The state board shall endeavor to attain the ambient air quality standards established by the Environmental Protection Agency pursuant to Section 1857c-4 of Title 42 of the United States Code.

SEC. 18. Section 39605 of the Health and Safety Code is amended to read:

39605. To carry out the purposes of this division, the state board may:

(a) Provide any assistance to any district.

(b) Require any district to provide requested information.

(c) Hold public hearings.

(d) May accept assistance, financial and otherwise, from any public entity.

SEC. 19. Section 39615.5 of the Health and Safety Code is amended and renumbered to read:

44531.5. Notwithstanding the provisions of Section 44531, 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 44541.5. 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. 20. Section 39616.5 of the Health and Safety Code is amended and renumbered to read:

44532.5. To the extent that funding has been separately authorized for financing solid waste disposal projects pursuant to Section 44541.5, 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 44531.5.

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. 21. Section 39620.7 of the Health and Safety Code is amended and renumbered to read:

44541.5. At such times as the authority desires to issue bonds

separately to finance projects for the disposal of solid waste as provided in Sections 44531.5 and 44532.5, 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 44541. All bonds so authorized shall be used solely to finance solid waste disposal facilities and shall be issued as otherwise provided in this chapter.

SEC. 22. Section 39806 of the Health and Safety Code is amended to read:

39806. No money shall be subvened pursuant to this chapter unless the district affected is actively and effectively engaged in the reduction of air contaminants pursuant to the basinwide air pollution control plan and related implementation programs established pursuant to Chapter 2 (commencing with Section 41600) of Part 4.

When the state board finds, pursuant to a resolution from the district board, or upon completion of proceedings conducted by the state board pursuant to Sections 41500 and 41502, that the district is not so engaged in the reduction of air contaminants, the subvention, or a portion thereof, which would have been allocated to such district pursuant to Section 39802, 39803, or 39804, plus such additional sum as may be necessary, if moneys are available from appropriations for the purposes of this chapter, shall be allocated to the state board itself to carry out the approved plan or program.

If the state board acts under this section pursuant to a resolution of the district board, it may do so without proceeding under Sections 41500 and 41502.

SEC. 23. Section 39850.1 of the Health and Safety Code is amended and renumbered to read:

46050.1. 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

03425 288610 526

revision of the noise element, comply with such provisions and recognize such guidelines.

SEC. 23.5. Section 40002 of the Health and Safety Code is amended to read:

40002. There is continued in existence and shall be, in every county, a county district, unless the entire county is included within the bay district, the south coast district, a regional district, or a unified district.

However, if only a part of the county is included within the bay district, the south coast district, a regional district, or a unified district, there is in that part of the county not included within any such district a county district.

SEC. 24. Section 40158 of the Health and Safety Code is amended to read:

40158. (a) The board of supervisors of each county included, in whole or in part, within the unified district shall appropriate such funds as are necessary to carry out the purposes of the unified district, as determined by the unified district board, in the proportion that the population of that portion of the county included within the unified district bears to the total population of the unified district.

(b) The population for purposes of subdivision (a) shall be based on the latest estimate prepared by the Population Research Unit of the Department of Finance pursuant to Section 2227 of the Revenue and Taxation Code.

SEC. 24.3. Section 40222 of the Health and Safety Code, as added by Chapter 324 of the Statutes of 1976, is amended and renumbered to read:

40422. With the exception of the public member, members of the south coast district board shall serve at the pleasure of their respective appointing powers. Any vacancy on the south coast district board shall be filled within 60 days of occurrence by its appointing power.

SEC. 24.5. Section 40223 of the Health and Safety Code, as added by Chapter 324 of the Statutes of 1976, is amended and renumbered to read:

40423. The south coast district board shall provide for the frequency and location of its meetings, except that no meeting of the south coast district board shall take place without public notice given at least seven days in advance of the scheduled date of the meeting.

SEC. 24.8. Section 40224 of the Health and Safety Code, as added by Chapter 324 of the Statutes of 1976, is amended and renumbered to read:

40424. A majority of the members of the south coast district board shall constitute a quorum and no official action shall be taken by the south coast district board except in the presence of a quorum and upon the affirmative votes of at least a majority of the members of the south coast district board.

SEC. 25. Section 40225 of the Health and Safety Code, as added

by Chapter 324 of the Statutes of 1976, is amended and renumbered to read:

40425. The south coast district board shall elect a chairman every two years from its membership. No member shall serve more than two consecutive terms as chairman.

SEC. 25.3. Section 40226 of the Health and Safety Code, as added by Chapter 324 of the Statutes of 1976, is amended and renumbered to read:

40426. Each member of the south coast district board shall receive a compensation of fifty dollars ($50) for each day, or portion thereof, but not to exceed five hundred dollars ($500) in any month, attending meetings of the south coast district board or committees thereof or, upon authorization of the south coast district board, while on official business of the south coast district, and his actual and necessary expenses incurred in performing his official duties.

SEC. 25.5. Section 40227 of the Health and Safety Code, as added by Chapter 324 of the Statutes of 1976, as amended and renumbered to read:

40427. The south coast district board shall determine the location of its headquarters and may establish branch offices in each of the counties included, in whole or in part, within the south coast district, and in such other parts of the south coast district as it deems necessary.

SEC. 25.8. Section 40274 of the Health and Safety Code is amended to read:

40274. The treasurers of the counties included, in whole or in part, within the bay district shall pay into the bay district treasury all funds held by them to the credit of the bay district.

SEC. 26. Section 40301 of the Health and Safety Code is amended to read:

40301. Prior to the public hearing, the board of supervisors shall give, not less than 15 days nor more than 45 days before the hearing, notice of the time and place of the hearing by publication pursuant to Section 6061 of the Government Code.

SEC. 27. Section 40313 of the Health and Safety Code is amended to read:

40313. The clerk of the board of supervisors shall notify, in writing, the board of supervisors and the clerk of the regional district board of the appointment made by the city selection committee within 10 days after such appointment has been made.

SEC. 28. Section 40375 of the Health and Safety Code is amended to read:

40375. The treasurers of the counties included, in whole or in part, within a regional district shall pay into the regional district treasury all funds held by them to the credit of the regional district.

SEC. 29. Section 40411 of the Health and Safety Code, as added by Chapter 324 of the Statutes of 1976, is amended to read:

40411. (a) The County of Ventura, and that portion of the County of Santa Barbara included within the South Coast Air Basin,

as described in Section 60104 of Title 17 of the California Administrative Code, as now or hereafter amended, shall be included within the south coast district upon the adoption of a resolution of approval by the south coast district board of a request submitted by the appropriate board of supervisors.

(b) The inclusion of the county, or portion thereof, as the case may be, shall take effect at the commencement of the first quarter commencing at least 60 days after the adoption of the resolution.

(c) A copy of the resolution of approval shall be sent by the south coast district board to the board of supervisors and the state board.

SEC. 29.2. Section 40412 of the Health and Safety Code, as added by Chapter 324 of the Statutes of 1976, is amended to read:

40412. The south coast district shall be the sole and exclusive local agency within the South Coast Air Basin with the responsibility for comprehensive air pollution control, and it shall have the duty to represent the citizens of the basin in influencing the decisions of other public and private agencies whose actions might have an adverse impact on air quality in the basin.

SEC. 29.4. Section 40449 of the Health and Safety Code, as added by Chapter 324 of the Statutes of 1976, is amended to read:

40449. (a) No provision of this chapter is a limitation on the power of any city or county included, in whole or in part, within the south coast district to adopt any ordinance with respect to air pollution control which is stricter than the rules and regulations adopted by the south coast district board and not in conflict therewith. The south coast district board shall enforce any such ordinance.

(b) At the request of the governing body of any city or county included, in whole or in part, within the south coast district, the south coast district board shall make available, on a temporary basis, the necessary personnel, equipment, and services to assist in adopting any ordinance stricter than the rules and regulations adopted by the south coast district.

SEC. 29.6. Section 40500 of the Health and Safety Code, as added by Chapter 324 of the Statutes of 1976, is amended to read:

40500. In accordance with the purposes of this chapter as set forth in Sections 40401 and 40402, the south coast district board shall establish rules and regulations for the granting of variances by the hearing board from Section 41701 or from such standards for the discharge of air contaminants as the south coast district may adopt.

The rules and regulations shall include a schedule of fees, which shall be based upon the number of sources the variances is applicable to and the extent the amount of emissions from the sources exceeds the required standards, for the filing of applications for variances. All applicants shall pay the fees required by such rules and regulations. A variance may be granted by the hearing board after a public hearing and upon filing, with appropriate fees, of a variance petition with the hearing board.

SEC. 29.8. Section 40708 of the Health and Safety Code is

amended to read:

40708. The provisions of the Knox-Nisbet Act (Chapter 6.6 (commencing with Section 54773), Part 1, Division 2, Title 5 of the Government Code) and the District Reorganization Act of 1965 (Division 1 (commencing with Section 56000), Title 6 of the Government Code) shall not be applicable to the districts.

SEC. 30. Section 40807 of the Health and Safety Code is amended to read:

40807. A hearing board may adopt rules for the conduct of its hearings. The rules shall be consistent with this division and, so far as practicable, shall conform to the rules for administrative adjudication by state agencies in Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

Where a district has two or more hearing boards, the rules shall be the same for all the hearing boards.

SEC. 31. Section 40824 of the Health and Safety Code is amended to read:

40824. In case of a hearing to consider an application for an interim variance, as authorized under Section 42351:

(a) The hearing board shall serve reasonable notice of the time and place of the hearing upon the district air pollution control officer and upon the applicant.

(b) Subdivision (b) of Section 40823 shall not apply.

SEC. 32. Section 40826 of the Health and Safety Code is amended to read:

40826. In case of a hearing to consider an application for a variance, other than an interim variance or a 90-day variance, or an application for a modification of a final compliance date in a variance previously granted, the notice requirements for such a hearing shall be as follows:

(a) The hearing board shall serve a notice of the time and place of a hearing to grant a variance upon the air pollution control officer, all other districts within the air basin, the state board, the Environmental Protection Agency, and upon the applicant or permittee, not less than 30 days prior to such hearing.

(b) The hearing board shall also publish a notice of the hearing in at least one daily newspaper of general circulation in the district, and shall send the notice to every person who requests such a notice, at least 30 days prior to the hearing.

(c) The notice shall state the time and place of the hearing; the time when, commencing not less than 30 days prior to the hearing, and place where the application, including any proposed conditions or schedule of increments of progress, is available for public inspection; and such other information as may be necessary to reasonably apprise the people within the district of the nature and purpose of the meeting.

SEC. 32.3. Section 40900 of the Health and Safety Code is amended to read:

40900. There is continued in existence and shall be, in each air

basin which is comprised of all or part of two or more districts, a basinwide air pollution control council.

The council shall consist of an elected official of, and designated by, the district board of each district which is included, in whole or in part, within the air basin.

SEC. 32.5. Section 41500 of the Health and Safety Code, as added by Chapter 957 of the Statutes of 1975, is amended to read:

41500. To coordinate air pollution control activities throughout the state, and to insure that the entire state is, or will be, in compliance with the standards adopted pursuant to Section 39606, the state board shall:

(a) Review the basinwide air pollution control plans submitted pursuant to Section 41600, or the revised plans submitted pursuant to Section 41602, to determine whether the plans contain reasonable provision to achieve and maintain the state's ambient air quality standards.

(b) Review the rules and regulations and programs submitted by the districts pursuant to Sections 40704 and 41603 to determine whether the rules and regulations and programs assure that reasonable provision is made to achieve and maintain such ambient air quality standards.

(c) Review the enforcement practices of the districts to determine whether reasonable action is being taken to enforce such programs, rules, and regulations.

SEC. 32.8. Section 41503 of the Health and Safety Code is amended to read:

41503. (a) If, after a public hearing, the state board finds that a basinwide air pollution control plan will not likely achieve and maintain the state's ambient air quality standards, the state board shall establish a basinwide air pollution control plan for the air basin that will achieve and maintain the state's ambient air quality standards for the air basin.

(b) The plan established by the state board shall include emission standards, rules and regulations, and enforcement procedures, and shall have the same force and effect as a basinwide air pollution control plan adopted pursuant to Section 41600.

SEC. 33. Section 41504 of the Health and Safety Code is amended to read:

41504. (a) If, after a public hearing, the state board finds that the program or the rules and regulations of a district will not likely achieve and maintain the state's ambient air quality standards, the state board may establish a program, or portion thereof, or rules and regulations it deems necessary to enable the district to achieve and maintain such ambient air quality standards.

(b) Any program, or portion thereof, or rule or regulation established by the state board for the district shall have the same force and effect as a program, rule, or regulation adopted by the district and shall be enforced by the district.

SEC. 33.3. Section 41505 of the Health and Safety Code is

amended to read:

41505. If, after a public hearing, the state board finds that a district is not taking reasonable action to enforce the statutory provisions, rules, and regulations relating to air quality in such a manner that will likely achieve and maintain the state's ambient air quality standards, the state board may exercise any of the powers of that district to achieve and maintain such ambient air quality standards.

SEC. 33.5. Section 41507 of the Health and Safety Code is amended to read:

41507. The state board may order, pursuant to Section 41602, review of a basinwide air pollution control plan for revision to achieve and maintain federal ambient air quality standards in the air basin, as part of the state implementation plan required under Section 1857c-5 of Title 42 of the United States Code. Such revision shall be filed with the state board within 60 days of the request of the state board, and the districts shall adopt rules and regulations implementing such plans within 60 days after final review pursuant to Section 41500, or final adoption pursuant to Section 41503, by the state board.

SEC. 34. Section 41511 of the Health and Safety Code, as added by Chapter 957 of the Statutes of 1975, is amended to read:

41511. For the purpose of carrying out the duties imposed upon the state board or any district, the state board or the district, as the case may be, may adopt rules and regulations to require the owner or the operator of any air pollution emission source to take such action as the state board or the district may determine to be reasonable for the determination of the amount of such emission from such source.

SEC. 34.5. Section 41603 of the Health and Safety Code is amended to read:

41603. Each district shall submit to the state board a program to implement the air pollution control plan of the air basin in which the district is located.

The program shall be revised, if necessary, whenever there is a review of the basinwide air pollution control plan, or upon request of the state board.

SEC. 35. Section 41701 of the Health and Safety Code is amended to read:

41701. Except as otherwise provided in Section 41704, 41809, or 41810, or Article 2 (commencing with Section 42350) of Chapter 4, no person shall discharge into the atmosphere from any source whatsoever any air contaminant, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is:

(a) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or

(b) Of such opacity as to obscure an observer's view to a degree

equal to or greater than does smoke described in subdivision (a).

SEC. 35.3. Section 41801 of the Health and Safety Code, as added by Chapter 957 of the Statutes of 1975, is amended to read:

41801. Nothing in this article shall be construed as limiting the authority granted under other provisions of law to any public officer to set or permit a fire when such fire is, in his opinion, necessary for any of the following purposes:

(a) The prevention of a fire hazard which cannot be abated by any other means.

(b) The instruction of public employees in the methods of fighting fire.

(c) The instruction of employees in methods of fighting fire, when such fire is set, pursuant to permit, on property used for industrial purposes.

(d) The setting of backfires necessary to save life or valuable property pursuant to Section 4426 of the Public Resources Code.

(e) The abatement of fire hazards pursuant to Section 13055.

(f) Disease or pest prevention, where there is an immediate need for and no reasonable alternative to burning.

SEC. 35.5. Section 41803 of the Health and Safety Code, as added by Chapter 957 of the Statutes of 1975, is amended to read:

41803. No authorization, however, under Section 41802 shall be granted after January 1, 1980, or such earlier date as the state board may determine, based upon a finding that an alternative method of disposal has been developed which is technologically and economically feasible.

SEC. 36. Section 41852 of the Health and Safety Code is amended to read:

41852. No person knowingly shall set or permit agricultural burning unless he has a valid permit from the agency designated by the state board to issue such permits in the area where the agricultural burning is to take place.

SEC. 36.5. Section 41864 is added to the Health and Safety Code, to read:

41864. The provisions of this article shall not supersede any rule or regulation of any district, which rule or regulation was in effect for five or more years prior to September 19, 1970.

SEC. 37. The heading of Article 5 (commencing with Section 41950) of Chapter 3 of Part 4 of Division 26 of the Health and Safety Code is amended to read:

Article 5. Gasoline Vapor Control

SEC. 38. Section 42300 of the Health and Safety Code is amended to read:

42300. (a) Every district board may establish, by regulation, a permit system that requires, except as otherwise provided in Section 42310, that before any person builds, erects, alters, replaces, operates, or uses any article, machine, equipment, or other contrivance which

may cause the issuance of air contaminants, the person obtain a permit to do so from the air pollution control officer of the district.

(b) Upon the district board establishing a permit system, no person may take any action within the district requiring a permit without first securing the permit or while a permit previously issued to that person for such action is suspended or revoked.

SEC. 39. Section 42303.5 is added to the Health and Safety Code, to read:

42303.5. No person shall knowingly make any false statement in any application for a permit, or in any information, analyses, plans, or specifications submitted in conjunction with the application or at the request of the air pollution control officer.

SEC. 40. Section 42310 of the Health and Safety Code is amended to read:

42310. A permit shall not be required for:

(a) Any vehicle.

(b) Any structure designed for and used exclusively as a dwelling for not more than four families.

(c) An incinerator used exclusively in connection with such a structure.

(d) Barbecue equipment which is not used for commercial purposes.

(e) Any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals, except that the district board of any district which is, in whole or in part, south of the Sixth Standard Parallel South, Mount Diablo Base and Meridian, may require permits for the operation of orchard and citrus grove heaters. In no event shall a permit be denied an operator of such heaters if the heaters produce unconsumed solid carbonaceous matter at the rate of one gram per minute or less.

(f) Repairs or maintenance not involving structural changes to any equipment for which a permit has been granted.

As used in this section, maintenance does not include operation.

SEC. 41. Section 42351 of the Health and Safety Code is amended to read:

42351. (a) Any person who has submitted an application for a variance and who desires to commence or continue operation pending the decision of the hearing board on the application, may submit an application for an interim variance.

(b) An interim variance may be granted for good causes stated in the order granting such a variance. The interim variance shall not be valid beyond the date of decision of the hearing board on the application of the variance or for more than 90 days from date of issuance of the interim variance, whichever occurs first.

(c) The hearing board shall not grant any interim variance (1) after it has held a hearing in compliance with the requirements of Section 40826, or (2) which is being sought to avoid the notice and hearing requirements of Section 40826.

SEC. 42. Section 42352 of the Health and Safety Code is amended to read:

42352. No variance shall be granted unless the hearing board makes all of the following findings:

(a) That the petitioner for a variance is, or will be, in violation of Section 41701 or of any rule, regulation, or order of the district.

(b) That, due to conditions beyond the reasonable control of the petitioner, requiring compliance would result in either (1) an arbitrary or unreasonable taking of property, or (2) the practical closing and elimination of a lawful business.

(c) That such closing or taking would be without a corresponding benefit in reducing air contaminants.

SEC. 43. Section 42400.5 is added to the Health and Safety Code, to read:

42400.5. In addition to the penalties, specified in Section 42400, the cost of putting out any unauthorized open outdoor fires may be imposed on any person violating Section 41800 or 41852.

SEC. 44. Section 42401 of the Health and Safety Code is amended to read:

42401. Any person who intentionally or negligently violates any order of abatement issued by a district pursuant to Section 42450, by a hearing board pursuant to Section 42451, or by the state board pursuant to Section 41505 shall be liable for a civil penalty not to exceed six thousand dollars ($6,000) for each day in which such violation occurs.

SEC. 45. Section 42704 of the Health and Safety Code is amended to read:

42704. After the state board has made a determination of availability, the state board may, as appropriate, revoke or modify its prior determination of availability if circumstances beyond the control of the state board, or of a stationary source required to install a monitoring device, cause a substantial delay or impairment in the availability of the device or cause the device no longer to be available.

SEC. 46. Section 42708 of the Health and Safety Code is amended to read:

42708. This chapter shall not prevent any local or regional authority from adopting monitoring requirements more stringent than those set forth in this chapter or be construed as requiring the installation of monitoring devices on any stationary source or classes of stationary sources. This section shall not limit the authority of the state board to require the installation of monitoring devices pursuant to Chapter 1 (commencing with Section 41500).

SEC. 47. Section 43001 of the Health and Safety Code is amended to read:

43001. The provisions of this part shall not apply to:

(a) Racing vehicles.

(b) Motorcycles, except as otherwise provided in Section 43107.

SEC. 48. Section 43003 of the Health and Safety Code is amended to read:

43003. (a) No limited-production vehicle shall be required to meet emission standards of the state board that are more stringent than standards adopted by the state board for 1974 model year motor vehicles. Such vehicles shall meet the standards adopted by the state board for 1974 model year motor vehicles or the standards adopted by the Environmental Protection Agency for 1975 model year motor vehicles, whichever are more stringent.

(b) The state board, in its discretion, may certify such limited-production vehicles for sale in California on the basis of engineering evaluation performed in lieu of all, or any portion, of the certification test procedures applicable to new non-limited-production vehicles.

SEC. 49. Section 43006 of the Health and Safety Code is amended to read:

43006. The state board may certify the fuel system of any motor vehicle powered by a fuel other than gasoline or diesel which meets the standards specified by Section 43004 and adopt test procedures for such certification.

SEC. 50. Section 43012 of the Health and Safety Code is amended to read:

43012. For the purpose of enforcing or administering any federal, state, or local law, order, regulation, or rule relating to vehicular sources of emissions, the executive officer of the state board or an authorized representative of the executive officer, upon presentation of his credentials or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, shall have the right of entry to any premises owned, operated, used, leased, or rented by any new or used car dealer, as defined in Sections 285, 286, and 426 of the Vehicle Code, for the purpose of inspecting any new vehicle, including any vehicle subject to the warranty provisions of Sections 43204 and 43205, for which emission standards have been enacted or adopted or for which emissions equipment is required and which is situated on the premises for the purpose of emission-related maintenance, repair, or service, or for the purpose of sale, lease, or rental, whether or not such vehicle is owned by such dealer. Such inspection may extend to all emission-related parts and operations of any such vehicle, and may require the onpremises operation of an engine or vehicle, the onpremises securing of samples of emissions from any such vehicle, and the inspection of any records which relate to vehicular emissions required by the Environmental Protection Agency or by any state or local law, order, regulation, or rule to be maintained by any such dealer in connection with his business.

This right of entry shall be limited to the hours during which the dealer is open to the public, except when the entry is made pursuant to warrant or whenever the executive officer or his authorized representative has reasonable cause to believe that a violation of any federal, state, or local law, order, regulation, or rule has been

committed in his presence. No vehicle shall be inspected pursuant to this section more than one time without an inspection warrant or without reasonable cause unless (a) the vehicle undergoes a change of ownership or (b) the inspection reveals that the vehicle has failed to comply with required emissions standards or equipment, in which case one additional inspection may be made to verify the violation or to verify that the violation has been corrected.

With respect to vehicles not owned by the dealer, the state board may not prosecute, without the owner's knowledge or consent, any violation by the owner of any law pertaining to vehicular emissions unless prior notice of the inspection has been given to the owner.

Notwithstanding the provisions of Section 17150 of the Vehicle Code, the state shall be liable for any injury or damage caused by the negligent or wrongful act or omission of the operator of any vehicle which is operated pursuant to this section.

SEC. 51. Section 43013 of the Health and Safety Code is amended to read:

43013. The state board may adopt and implement motor vehicle emission standards for the control of air contaminants and sources of air pollution which the state board has found to be necessary and technologically feasible to carry out the purposes of this division.

SEC. 52. Section 43014 of the Health and Safety Code is amended and renumbered to read:

43015. The Air Pollution Control Fund is continued in existence in the State Treasury. All money in the fund is continuously appropriated to the state board to carry out its duties and functions.

SEC. 53. Section 43014 is added to the Health and Safety Code, to read:

43014. The state board may issue permits for the testing of experimental motor vehicle pollution control devices installed in used motor vehicles, or for the testing of experimental or prototype motor vehicles which appear to have very low emission characteristics.

SEC. 54. Section 43102 of the Health and Safety Code is amended to read:

43102. No new motor vehicle shall be certified by the state board for sale and registration in this state, or engine certified by the state board for use in such vehicle, unless such vehicle or engine, as the case may be, fulfills all of the following conditions:

(a) Meets the emission standards adopted by the state board pursuant to Section 43101 under test procedures adopted by the state board pursuant to Section 43104.

(b) Has been certified by the state board.

SEC. 55. Section 43204 of the Health and Safety Code is amended to read:

43204. (a) The manufacturer of each motor vehicle and each motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that the motor vehicle or motor vehicle engine is:

(1) Designed, built, and equipped so as to conform, at the time of sale, with the applicable emission standards specified in this part.

(2) Free from defects in materials and workmanship which cause such motor vehicle or motor vehicle engine to fail to conform with applicable regulations for its useful life as determined pursuant to subdivision (b).

(b) As used in subdivision (a), "useful life" of a motor vehicle or motor vehicle engine means:

(1) In the case of light-duty motor vehicles, and motor vehicle engines used in such motor vehicles, a period of use of five years or 50,000 miles, whichever first occurs.

(2) In the case of any other motor vehicle or motor vehicle engine, the period of use set forth in paragraph (1) of this subdivision, unless the state board determines that a period of use of greater duration or mileage is appropriate.

SEC. 56. Section 43205 of the Health and Safety Code is repealed.

SEC. 57. Section 43206 of the Health and Safety Code is amended to read:

43206. Commencing April 1, 1973, and semiannually thereafter, every person who manufactures new motor vehicles for sale in California shall file with the state board a report as to such person's efforts and progress in meeting federal standards promulgated pursuant to Section 1857f-1(b)(1) of Title 42 of the United States Code.

The reports shall be available to the public. However, the manufacturer may designate that a portion of the report is a trade secret and such portion shall not be released except to such state board employees as are specifically designated by the executive officer, unless the state board, after an investigation, determines such portion is not in fact a trade secret. State board employees having access to the trade secret shall maintain its confidentiality.

The state board shall conduct such investigations with respect to the reports as it deems necessary and shall file a summary of the semiannual reports with the Legislature and the Governor as soon after each quarter as possible.

No report is required from a manufacturer once all models of motor vehicles of the manufacturer which are sold in California and which are subject to the standards promulgated pursuant to Section 1857f-1(b)(1) of Title 42 of the United States Code meet all such standards.

SEC. 58. Section 43208 of the Health and Safety Code is amended to read:

43208. Factory assembly line test procedures shall not apply to light-duty motor vehicles, if (a) the manufacturer thereof advises the state board in writing that the manufacturer does not intend to sell more than 1,000 motor vehicles in California in a given model year, and (b) the manufacturer does not sell more than 1,000 motor vehicles of its make in such a year. Nothing in this section shall be construed to prohibit the state board from requiring testing by the

applicable certifying test procedure of up to 2 percent of the motor vehicles of such a manufacturer sold in California. This section shall not apply to 1976 and later model year motor vehicles.

SEC. 59. Section 43651 of the Health and Safety Code is amended to read:

43651. Every 1963 or later model year motor vehicle, subject to registration in this state, shall be equipped with a certified device to control its crankcase emissions.

SEC. 60. Section 43656.5 is added to the Health and Safety Code, to read:

43656.5. The charge that can be made for the inspection and certification of exemption granted by the state board pursuant to Section 43656 shall not exceed three-tenths (0.3) of one hour multiplied by the hourly labor rate charged by the particular garage or service station.

The charge shall be posted as a fixed fee.

SEC. 61. Section 44501 of the Health and Safety Code is amended to read:

44501. (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. 62. 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 Part 5 (commencing with Section 43000) 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 Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.

SEC. 63. 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:

Assembly Bill No. 1758, enacted as Chapter 957 of the Statutes of 1975, repealed and reenacted, with various substantive changes, provisions regarding air pollution contained in the Health and Safety Code, and made conforming changes in the Health and Safety Code and in cross-reference in provisions in various codes.

In order to incorporate into the revisions made by Assembly Bill No. 1758 the changes in the law resulting from other enactments in 1975 as soon as possible so as to avoid any confusion in the law, it is necessary that this act take effect immediately.

CHAPTER 1064

An act to amend Sections 1705 and 1731 of the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 1705 of the Public Utilities Code is amended to read:

1705. At the time fixed for any hearing before the commission or a commissioner, or the time to which the hearing has been continued, the complainant and the corporation or person complained of, and such corporations or persons as the commission allows to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses. After the conclusion of the hearing, the commission shall make and file its order, containing its decision. The decision shall contain, separately stated, findings of fact and conclusions of law by the commission on all issues material to the order or decision. A copy of such order, certified under the seal of

the commission, shall be served upon the corporation or person complained of, or his or its attorney. The order shall, of its own force, take effect and become operative 20 days after the service thereof except as otherwise provided by the commission,, and shall continue in force either for a period designated in it or until changed or abrogated by the commission. If the commission believes that an order cannot be complied with within 20 days, it may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may on application and for good cause shown, extend the time for compliance fixed in its order.

SEC. 2. Section 1731 of the Public Utilities Code is amended to read:

1731. After any order or decision has been made by the commission, any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing in respect to any matters determined in the action or proceeding and specified in the application for rehearing. The commission may grant and hold a rehearing on those matters, if in its judgment sufficient reason is made to appear. No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless the corporation or person has filed application to the commission for a rehearing before the effective date of the order or decision, or, if the commission fixes a date earlier than the 20th day after issuance as the effective date of the order or decision, unless the corporation or person has filed such application for rehearing before the 30th day after the date of issuance, or before the 10th day after the date of issuance in the case of an order authorizing the issuance of securities.

CHAPTER 1065

An act to amend Section 25100 of the Corporations Code, relating to corporations.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Section 25110, 25120 and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate

or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any corporation engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any shares, investment certificates or borrower's membership certificates (as defined in the Savings and Loan Association Law) issued by a savings and loan association holding a license then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised under the laws of this state.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the

security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when he finds that such qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Agricultural Code.

(n) Any beneficial interest in a retirement system as defined in subdivision (a) of Section 28002.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or

subscribe to any such security.

Such certification of an exchange shall be made by the commissioner upon the written request of the exchange if he finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with a corresponding requirement that such securities not be largely held in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part I of Division 3 of Title 2 of the Government Code, may by rule or

order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(p) A promissory note secured by a lien on real property, which is not one of a series of notes secured by interests in the same real property.

SEC. 2. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any

such interest, or to any corporation engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any shares, investment certificates or borrower's membership certificates (as defined in the Savings and Loan Association Law) issued by a savings and loan association holding a license then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised under the laws of this state.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be

used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when he finds that such qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Agricultural Code.

(n) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of licensed physicians and surgeons, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective trust fund or for necessary expenses of administration.

(o) Any beneficial interest in a retirement system as defined in subdivision (a) of Section 28002.

(p) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of an exchange shall be made by the commissioner upon the written request of the exchange if he finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with a corresponding requirement that such securities not be largely held

in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part I of Division 3 of Title 2 of the Government Code, may by rule or order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(q) A promissory note secured by a lien on real property, which is not one of a series of notes secured by interests in the same real property.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 3980 are both chaptered and amend Section 25100 of the Corporations Code, and this bill is chaptered after Assembly Bill No. 3980, that the amendments to Section 25100 proposed by both bills be given effect and incorporated in Section 25100 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. 3980 are both chaptered, both amend Section 25100, and Assembly Bill No. 3980 is chaptered before this bill, in which case Section 1 of this act shall not become operative.

CHAPTER 1066

An act relating to Lake Elsinore State Recreation Area, making an appropriation therefor and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Notwithstanding the provisions of 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 five hundred thousand dollars ($500,000) for the preparation of an environmental impact report and for the preparation of all plans, designs, specifications, engineering services, and construction cost estimates for dike construction, dredging, bank protections, recreational facilities, and water quality control facilities at Lake Elsinore State Recreation Area pursuant to the Lake Elsinore Stabilization and Land Use Plan, dated September 25, 1974, endorsed by the State Park and Recreation Commission in October, 1974. However, moneys appropriated by this section shall not be expended unless and until the Director of Parks and Recreation makes a finding that an adequate and continuing supply of water for Lake Elsinore has been secured. The purchase of pumping water pursuant to Section 3 may not be deemed, for the purposes of this section, as the securing of an adequate and continuing supply of water.

SEC. 2. Notwithstanding Section 5098.2 of the Public Resources Code, there is hereby appropriated, in accordance with the following schedule, the sum of two hundred sixty thousand dollars ($260,000) to the Department of Parks and Recreation for expenditure, during the period September 1, 1976, to December 31, 1978, inclusive, for a study to determine whether there is available a continuous source of water from wells that is sufficient to supply Lake Elsinore and whether such manner of supplying the lake would be feasible:

Schedule:

(a) Payable from the Harbors and Watercraft Revolving Fund $40,000

(b) Payable from the Park and Recreation Revolving Account in the General Fund $220,000

SEC. 3. Notwithstanding Section 5098.2 of the Public Resources Code, if at any time prior to December 31, 1978, the water level of Lake Elsinore recedes to an elevation of 1,227.5 feet above mean sea level, as determined by the Director of Parks and Recreation, there

is appropriated from the Park and Recreation Revolving Account in the General Fund to the Department of Parks and Recreation the sum of three hundred thousand dollars ($300,000) for the sole purpose of immediately purchasing or pumping water from any available source to raise the elevation of the lake.

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:

The evaporation rate of water within Lake Elsinore in its current state is such that the benefits of additional water supplies which may be secured are jeopardized. Because it is necessary for construction of improvements to begin at the earliest possible time in order to prevent such evaporation, and because it is necessary to drill a new test well at the earliest possible time in order to carry out a study of a possible water supply for the lake, and because the water level of the lake relates directly to the water quality and recreational benefits of the lake and the neighboring community and must therefore be maintained during the study period, it is necessary that this act go into immediate effect.

CHAPTER 1067

An act to add Chapter 2 (commencing with Section 24200) to Division 20 of the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Chapter 2 (commencing with Section 24200) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 2. USE OF CARCINOGENS

Article 1. General Provisions and Definitions

24200. This chapter shall be known and may be cited as the Occupational Carcinogens Control Act of 1976.

24201. The purpose of this chapter is to clarify and strengthen the provisions of state law applicable to the use of carcinogens in California. It is the intent of the Legislature to provide for effective implementation of the provisions of this chapter. It is further the intent of the Legislature, in enacting this chapter, to eliminate any duplication or overlap of duties performed by the State Department of Health and the Division of Industrial Safety in the Department of

Industrial Relations with respect to the safety of employees involved in the use of carcinogens.

24202. The following definitions shall govern the construction of this chapter. Additionally, except where the context otherwise requires, the definitions contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code shall also be applicable to this chapter.

24203. "Affected employee" means an employee who, as part of his employment, is involved in the use of a carcinogen, or an employee with respect to whom there is a substantial probability that he will become so involved as the result of his employer's use of a carcinogen.

24204. "Carcinogen" means and includes the following recognized cancer-causing substances for which standards have been adopted pursuant to Article 3 (commencing with Section 24220):

(a) Any of the following substances and any compound, mixture, or product containing such substances:

(1) 2-acetylaminofluorene.
(2) 4-aminodiphenyl.
(3) Benzidine and its salts.
(4) Bis(chloromethyl) ether.
(5) 3,3'-dichlorobenzidine and its salts.
(6) 4-dimethylaminoazobenzene.
(7) Beta-naphthylamine.
(8) 4-nitrodiphenyl.
(9) N-nitrosodimethylamine.
(10) Beta-propriolactone.
(11) Methyl chloromethyl ether.
(12) Alpha-naphthylamine.
(13) 4,4'-methylene-(bis)2-chloroaniline.
(14) Ethyleneimine.

(b) Asbestos, including chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite.

(c) Vinyl chloride.

(d) Any other substance for which standards are adopted and in effect due to cancer-causing properties and any compound, mixture, or product containing such a substance, except as specifically exempted from such standards.

24205. "Division" means the Division of Industrial Safety in the Department of Industrial Relations.

24206. "Employer" means any of the following:

(a) The state and every state agency.

(b) Each county, city, district, and all public and quasi-public corporations and public agencies therein.

(c) Every person including any public service corporation, which has any natural person in service.

(d) The legal representative of any deceased employer.

24207. "Standards" means standards and orders adopted by the standards board pursuant to Chapter 6 (commencing with Section

140) of Division 1 of the Labor Code.

24208. "Standards board" means the Occupational Safety and Health Standards Board in the Department of Industrial Relations.

24209. "State department" means the State Department of Health.

24209.5. "Use" means any use of a carcinogen by an employer, including but not limited to, the following:

(a) Manufacture of a carcinogen, industrial uses thereof, or formation of a carcinogen as a result of a chemical reaction.

(b) Sale or other transfer of a carcinogen.

(c) Storage or disposal of a carcinogen.

(d) Utilization of a carcinogen for research.

(e) Transport of a carcinogen. The state department and division shall have concurrent jurisdiction with any federal agency to protect affected employees of interstate carriers, including rail carriers, while in this state, as provided in this chapter or as authorized by other provisions of state law.

Article 2. Exemptions

24210. Except where in conflict with Section 142.3 of the Labor Code or other applicable provisions of law, the standards board may exempt from the provisions of this chapter and its standards uses of carcinogens which it determines have been shown by a preponderance of the evidence to present no substantial threat to employee health and which may include, but need not be limited to:

(a) Use of carcinogens specified in subdivision (a) of Section 24204 in operations involving the destructive distillation of carbonaceous materials, such as occurs in coke ovens.

(b) Use of asbestos, except where there is a material risk of substantial and repeated exposure of employees to such carcinogen.

The standards board shall report to the Legislature on or before January 5, 1978, respecting recommendations for standards governing the uses specified in this section.

The standards board shall adopt regulations for the implementation of the provisions of this section.

Article 3. Standards and Administration

24220. (a) Pursuant to Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code, the standards board shall adopt standards for carcinogens at least as restrictive as the federal requirements for use of carcinogens promulgated under Section 6 of the Occupational Safety and Health Act of 1970 (P.L. 91-596), as such federal requirements may be revised from time to time. Within six months after the effective date of any change in such federal requirements, the standards board shall amend its standards as necessary to comply with this subdivision.

(b) It is the intent of the Legislature that the state shall exercise

strong leadership in preventing employees, employers, and other persons from being exposed to carcinogens. In this connection, it is the further intent of the Legislature that the standards board adopt standards for substances as to which there exists a preponderance of evidence of carcinogenicity, but for which the federal government has not yet promulgated requirements specified in subdivision (a). The state department shall determine the necessity for such standards and shall develop and present such proposed standards to the standards board pursuant to Section 147.1 of the Labor Code. The standards board shall on or before January 5, 1978, report to the Legislature on whether it has adopted standards for carcinogens which are (1) not subject to federal requirements specified in subdivision (a) or (2) not specified in subdivision (a), (b), or (c) of Section 24204.

24221. All standards relating to the use of carcinogens which are in effect on January 1, 1977, including standards set forth in Sections 5208, 5209, and 5210 of Title 8 of the California Administrative Code, shall remain in effect until amended or repealed by the standards board.

24222. The division shall have primary responsibility for enforcement of standards relating to carcinogens. However, the State Department of Health shall assist the division in the enforcement of such standards, in the manner prescribed by this chapter and as shall be further defined by a written agreement between the state department and the Department of Industrial Relations, pursuant to Section 144 of the Labor Code.

Article 4. Reporting

24230. The standards board shall adopt one or more standards requiring each employer which uses any carcinogen, including asbestos and vinyl chloride, to submit a written report regarding such use or any incident which results in the release of a potentially hazardous amount of a carcinogen into any area where employees may be exposed. The reporting requirements set forth in Sections 5209 and 5210 of Title 8 of the California Administrative Code on January 1, 1977, shall remain in effect until amended or repealed by the standards board, and any subsequent reporting requirements shall provide for reports which are at least as detailed as those required on such date. For asbestos and vinyl chloride, the standards board shall adopt a standard which requires each employer who uses vinyl chloride or asbestos to report in a manner similar to the reporting required pursuant to Section 5209 of Title 8 of the California Administrative Code.

24231. The division shall transmit a copy of each report specified in Section 24230 to any bargaining representatives, and other representatives known to the division, of affected employees of the reporting employer. A copy of each such report shall be posted by the employer in the location or locations where the carcinogen is

used, which shall be conspicuous to affected employees, as shall be provided in the standards.

24232. The state department shall make every effort to ascertain the identities of existing users of carcinogens and to notify, inform, and educate them about the requirements of this chapter on or before July 1, 1977. The division shall cooperate fully with the state department in this effort. The state department and division shall utilize all appropriate means of communication and education, including direct mailings to employers, the use of courses, workshops, and seminars, advertising in mass media, trade and employee publications, and professional and scientific journals, contact with trade associations, employee representatives, and professional and scientific societies, and cooperation with other governmental agencies to inform affected employees, employers, and the public of the requirements of this chapter.

Article 5. Medical Examinations

24240. Every employer using carcinogens shall provide for medical examinations of affected employees where required by standards adopted pursuant to subdivision (b) of Section 142.3 of the Labor Code. The standards board shall continue to require medical examinations in at least as effective a manner as provided in Sections 5208, 5209, and 5210 of Title 8 of the California Administrative Code on January 1, 1977.

Article 6. Inspections

24250. The state department shall establish priorities for the performance of inspections of premises for which uses have been reported pursuant to Section 24230 and shall perform as many of such inspections as possible within the limits of the resources available to it for such purpose.

24251. The agreement between the state department and the Department of Industrial Relations specified in Section 24222 shall provide for a right of access to places of employment for any authorized representative of the state department in order to perform such inspections.

24252. If an authorized representative of the state department determines on the basis of an inspection conducted pursuant to this article that an employer is using a carcinogen in violation of the standards pertaining to such use, he shall immediately notify the employer, affected employees, and the division.

24253. Whenever an employer, other than a public agency, is inspected pursuant to this chapter, the employer shall within seven days thereafter remit to the division the inspection fee prescribed pursuant to this section. Such fees shall be set forth in a schedule to be adopted by the chief of the division, and shall be not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

The chief of the division, in establishing such fee schedule, shall take into account the number of affected employees and the amount of time necessary to perform the inspection, and may, in addition, consider any other reasonable criteria. If an employer is subject to inspection more than once during any calendar year, he shall not be charged any fee for the second or subsequent inspections of the same use which was the subject of the initial inspection, regardless of the basis for the inspection. The fees collected by the division shall be deposited in the General Fund.

24254. The director of the state department shall transmit to the division copies of each report of an inspection relating to the use of a carcinogen which is performed pursuant to this chapter.

24255. In addition to the provisions of Section 144.5 of the Labor Code, upon request from the division or any employer or any employee, or upon its own initiative, the state department shall provide consultation services regarding the use of a carcinogen and may offer educational programs to inform employers and employees of the provisions of this chapter; provided, that the department shall devote a substantial amount of staff time to department-initiated inspections provided for in this article.

Article 7. Penalties

24260. The civil penalties prescribed by Chapter 6 (commencing with Section 6423) of Part 1 of Division 5 of the Labor Code shall be applicable to violations of standards and special orders regulating the use of carcinogens, except as modified by the following:

(a) A civil penalty assessed against an employer because of failure to report, as required by standards specified in Section 24230, shall be not less than five hundred dollars ($500).

(b) A civil penalty assessed against an employer for a serious violation involving use of a carcinogen in violation of standards or special orders, except as provided by subdivision (c) and by Section 6429 of the Labor Code, shall be in the amount of one thousand dollars ($1,000).

(c) A civil penalty assessed pursuant to Section 6429 of the Labor Code for repeated violations of standards or special orders specified in subdivision (a) or (b) shall be not less than five thousand dollars ($5,000).

The maximum limitations on civil penalties specified in Chapter 4 (commencing with Section 6423) of Part 1 of Division 5 of the Labor Code shall be applicable to civil penalties for which the minimum amount is prescribed by subdivision (a) or (c). Nothing in this section shall supersede any provision of law prescribing criminal offenses or penalties.

This section shall become operative July 1, 1977.

24261. (a) For purposes of this article and for purposes of Chapter 4 (commencing with Section 6423) of Part 1 of Division 5 of the Labor Code, "serious violation" shall have the meaning

specified in Section 6432 of the Labor Code and, except as provided in subdivision (b), shall additionally include any violation of a standard or special order respecting the use of a carcinogen.

(b) A violation of a standard or special order respecting the use of a carcinogen shall not be a "serious violation" if the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation or if the violation is minor and resulted in no substantial health hazard, as determined by the division.

SEC. 2. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Department of Industrial Relations for use during the period commencing January 1, 1977, and continuing through June 30, 1977, in accordance with the following schedule:

(a) For additional funding of its contract with the State Department of Health pursuant to Section 24222 of the Health and Safety Code for the purposes set forth in Article 6 (commencing with Section 24250) of Chapter 2 of Division 20 of the Health and Safety Code, as added by this act $675,000

(b) For additional funding of such contract with State Department of Health for the purposes set forth in Section 24232 of the Health and Safety Code, as added by this act; provided, that any of such funds not expended by the state department for the purposes of Section 24232 may be expended for the purposes specified in subdivision (a) of this section $250,000

(c) For costs to the Department of Industrial Relations incurred in administering the provisions of Chapter 2 (commencing with Section 24200) of Division 20 of the Health and Safety Code, as added by this act.... $75,000

However, the Director of Finance may reduce the amount expended hereunder commensurate with any federal moneys which may be made available to the division for the purposes of Chapter 2 (commencing with Section 24200) of Division 20 of the Health and Safety Code, as added by this act, and which may be used as provided in this section.

It is the intent of the Legislature that the State Department of Health shall continue to respond to serious complaints from employees regarding the potential unlawful use of carcinogens under this act, and shall give such investigations priority over department-initiated inspections provided for by this act; provided, that the department shall devote a substantial amount of staff time to such department-initiated inspections on a priority basis.

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 governmental

entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1068

An act to amend Section 272 of the Penal Code, and to amend Sections 601.2, 607, 625, 626, 628, 630, 631, 650, 651, 652, 653, 656, 658, 660, 661, 663, 675, 679, 681, 700, 700.5, 701, 702, 706, 725, 726, 727, 730, 731, 737, 738, 739, 741, 755, 777, 778, 781, 800, 828, 900, and 914 of, to amend and renumber the headings of Article 5 (commencing with Section 600), Article 6 (commencing with Section 625), Article 7 (commencing with Section 650), Article 8 (commencing with Section 675), Article 9 (commencing with Section 725), Article 10 (commencing with Section 750), Article 11 (commencing with Section 775), Article 12 (commencing with Section 800), Article 13 (commencing with Section 825), Article 14 (commencing with Section 850), Article 15 (commencing with Section 880), Article 16 (commencing with Section 900), Article 17 (commencing with Section 925), and Article 18 (commencing with Section 940), Chapter 2, Part 1, Division 2 of, to add Article 1 (commencing with Section 200), Article 2 (commencing with Section 225), Article 3 (commencing with Section 240), Article 4 (commencing with Section 245), Article 5 (commencing with Section 270), Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 8 (commencing with Section 325), Article 9 (commencing with Section 345), Article 10 (commencing with Section 360), Article 11 (commencing with Section 375), Article 12 (commencing with Section 385), and Article 13 (commencing with Section 395) to Chapter 2, Part 1, Division 2 of, to add and repeal Sections 272.5, 302, 303, 318.5, 319.5, 328.5, 331.5, 361.5, and 366.5 of, and to repeal Article 1 (commencing with Section 500), Article 2 (commencing with Section 525), Article 2.5 (commencing with Section 540), Article 3 (commencing with Section 550), and Article 4 (commencing with Section 575), Chapter 2, Part 1, Division 2 of, and Sections 600, 625.5, 634.5, 650.5, 727.5, 727.6, 728, and 729 of, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 272 of the Penal Code is amended to read:

272. Every person who commits any act or omits the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of 18 years to come within the provisions of Sections 300, 601, or 602 of the Welfare and Institutions Code or which act or omission contributes thereto, or any

person who, by any act or omission, or by threats, commands, or persuasion, induces or endeavors to induce any person under the age of 18 years or any ward or dependent child of the juvenile court to fail or refuse to conform to a lawful order of the juvenile court, or to do or to perform any act or to follow any course of conduct or to so live as would cause or manifestly tend to cause any such person to become or to remain a person within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in a county jail, or may be released on probation for a period not exceeding five years. The district attorney shall prosecute all violations charged under this section.

SEC. 1.5. Article 1 (commencing with Section 200) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 1. General Provisions

200. This chapter shall be known and may be cited as the "Arnold-Kennick Juvenile Court Law."

201. The provisions of this chapter, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations thereof, and not as new enactments.

202. (a) The purpose of this chapter is to secure for each minor under the jurisdiction of the juvenile court such care and guidance, preferably in his own home, as will serve the spiritual, emotional, mental, and physical welfare of the minor and the best interests of the state; to preserve and strengthen the minor's family ties whenever possible, removing him from the custody of his parents only when his welfare or safety and protection of the public cannot be adequately safeguarded without removal; and, when the minor is removed from his own family, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents. This chapter shall be liberally construed to carry out these purposes.

(b) The purpose of this chapter also includes the protection of the public from the consequences of criminal activity, and to such purpose probation officers, peace officers, and juvenile courts shall take into account such protection of the public in their determinations under this chapter.

203. An order adjudging a minor to be a ward of the juvenile court shall not be deemed a conviction of a crime for any purpose, nor shall a proceeding in the juvenile court be deemed a criminal proceeding.

204. The Department of Justice shall not knowingly transmit to any person or agency any information relating to an arrest or taking

into custody of a minor at the time of such arrest or taking into custody unless such information also includes the disposition resulting therefrom.

"Disposition," as used herein, includes a release of such minor from custody without the filing of an accusatory pleading or the filing of a petition under the provisions of this chapter, a determination of the issue of wardship by the juvenile court, or a determination by the juvenile court that such minor is not a fit subject to be dealt with under the provisions of this chapter.

This section shall not be construed to prohibit the Department of Justice from transmitting fingerprints or photographs of a minor to a law enforcement agency for the purpose of obtaining identification of the minor or from requesting from such agency the history of the minor.

This section shall not be construed to prohibit the Department of Justice from transmitting any information relating to an arrest or taking into custody of a minor received by said bureau prior to the effective date of this section.

205. All commitments to institutions or for placement in family homes under this chapter shall be, so far as practicable, either to institutions or for placement in family homes of the same religious belief as that of the person so committed or of his parents or to institutions affording opportunity for instruction in such religious belief.

206. No person taken into custody solely upon the ground that he is a person described in Section 300 or adjudged to be such and made a dependent child of the juvenile court pursuant to this chapter solely upon that ground shall, in any detention under this chapter, be brought into direct contact or personal association with any person taken into custody on the ground that he is a person described by Section 601 or Section 602, or who has been made a ward of the juvenile court on either such ground.

Separate, segregated facilities for such persons alleged to be within the description of Section 300, or persons adjudged to be such and made dependent children of the court pursuant to this chapter solely upon that ground shall be provided by the board of supervisors. Such separate, segregated facilities may be provided in the juvenile hall or elsewhere.

No record of the detention of such a person shall be made or kept by any law enforcement agency or the Bureau of Criminal Identification and Investigation as a record of arrest.

207. No court, judge, referee, or peace officer shall knowingly detain in any jail or lockup any person under the age of 18 years, unless a judge of the juvenile court shall determine that there are no other proper and adequate facilities for the care and detention of such person, or unless such person has been transferred by the juvenile court to another court for proceedings not under the juvenile court law and has been charged with or convicted of a felony. If any person under the age of 18 years is transferred by the

juvenile court to another court and is charged with or convicted of a felony as herein provided and is not released pending hearing, such person may be committed to the care and custody of a sheriff, constable, or other peace officer who shall keep such person in the juvenile hall or in such other suitable place as such latter court may direct, provided that no such person shall be detained in or committed to any hospital except for medical or other remedial care and treatment or observation.

208. When any person under 18 years of age is detained in or sentenced to any institution in which adults are confined, it shall be unlawful to permit such person to come or remain in contact with such adults.

No person who is a ward or dependent child of the juvenile court who is detained in or committed to any state hospital or other state facility shall be permitted to come or remain in contact with any adult person who has been committed to any state hospital or other state facility as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6, or with any adult person who has been charged in an accusatory pleading with the commission of any sex offense for which registration of the convicted offender is required under Section 290 of the Penal Code and who has been committed to any state hospital or other state facility pursuant to Section 1026 or 1370 of the Penal Code.

As used in this section, "contact" does not include participation in supervised group therapy or other supervised treatment activities.

209. The judge of the juvenile court of a county, or, if there is more than one such judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or lockup which, in the preceding calendar year was used for confinement for more than 24 hours of any minor. Such judge shall note in the minutes of the court whether the jail, juvenile hall, or lockup is a suitable place for confinement of minors.

The Department of the Youth Authority shall likewise conduct an annual inspection of each jail, juvenile hall, or lockup situated in this state which, during the preceding calendar year, was used for confinement for more than 24 hours of any minor.

If either such judge of the juvenile court or the department, after inspection of a jail, juvenile hall, or lockup, finds that it is not being operated and maintained as a suitable place for confinement of minors, the juvenile court or the department shall give notice of its finding to all persons having authority to confine such minors pursuant to this chapter and commencing 60 days thereafter such jail, juvenile hall, or lockup shall not be used for confinement of such minors until such time as the judge or department, as the case may be, finds, after reinspection of the jail, juvenile hall, or lockup, that the conditions which rendered the facility unsuitable have been remedied, and such facility is a suitable place for confinement of such minors.

The custodian of each jail, juvenile hall, and lockup shall make such reports as may be required by the department or the juvenile court to effectuate the purposes of this section.

210. The Youth Authority shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors.

Any violation of such standards shall render a juvenile hall unsuitable for the confinement of minors for purposes of Section 209.

211. No person under the age of 16 years shall be committed to a state prison or be transferred thereto from any other institution.

212. There shall be no fee for filing a petition under this chapter nor shall any fees be charged by any public officer for his services in filing or serving papers or for the performance of any duty enjoined upon him by this chapter, except where the sheriff transports a person to a state institution. If the judge of the juvenile court orders that a ward or dependent child go to a state institution without being accompanied by an officer or that a ward or dependent child be taken to an institution by the probation officer of the county or parole officer of the institution or by some other suitable person, all expenses necessarily incurred therefor shall be allowed and paid in the same manner and from the same funds as such expenses would be allowed and paid were such transportation effected by the sheriff.

213. Any willful disobedience or interference with any lawful order of the juvenile court or of a judge or referee thereof constitutes a contempt of court.

214. In each instance in which a provision of this chapter authorizes the execution by any person of a written promise to appear or to have any other person appear before the probation officer or before the juvenile court, any willful failure of such promissor to perform as promised constitutes a misdemeanor and is punishable as such if at the time of the execution of such written promise the promissor is given a copy of such written promise upon which it is clearly written that failure to appear or to have any other person appear as promised is punishable as a misdemeanor.

215. As used in this chapter, unless otherwise specifically provided, the term "probation officer" shall mean the juvenile probation officer or the person who is both the juvenile probation officer and the adult probation officer, and shall include any social worker in a county welfare department when supervising dependent children of the juvenile court pursuant to Section 272 by order of the court under Section 300, and the term "department of probation" shall mean the department of juvenile probation or the department wherein the services of juvenile and adult probation are both performed.

216. This chapter shall not apply:

(a) To any person who violates any law of this state defining a crime, and is at the time of such violation under the age of 18 years, if such person thereafter flees from this state. Any such person may be proceeded against in the manner otherwise provided by law for

proceeding against persons accused of crime. Upon the return of such person to this state by extradition or otherwise, proceedings shall be commenced in the manner provided for in this chapter.

(b) To any person who violates any law of another state defining a crime, and is at the time of such violation under the age of 18 years, if such person thereafter flees from that state into this state. Any such person may be proceeded against as an adult in the manner provided in Chapter 4 (commencing with Section 1547) of Title 12 of Part 2 of the Penal Code. The magistrate shall, for purposes of detention, detain such person in juvenile hall if space is available. If no space is available in juvenile hall, the magistrate may detain such person in the county jail.

217. The board of supervisors may by ordinance provide that any bicycles or toys, or both, in the possession of the sheriff of any such county which have been unclaimed for a period of at least three months may, instead of being sold at public auction to the highest bidder pursuant to the provisions of Section 2080.5 of the Civil Code, be turned over to the probation officer or to the welfare department of such county for use in any program of activities designed to prevent juvenile delinquency.

218. In any case in which, pursuant to this chapter, the court appoints counsel to represent any person who desires but is unable to employ counsel, counsel shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court, to be paid out of the general fund of the county.

219. The board of supervisors of a county may provide a ward of the juvenile court engaged in rehabilitative work without pay, under an assignment by order of the juvenile court to a work project in a county department, with workers' compensation benefits for injuries sustained while performing such rehabilitative work, in accordance with Section 3364.55 of the Labor Code.

220. No condition or restriction upon the obtaining of an abortion by a female detained in any local juvenile facility, pursuant to the Therapeutic Abortion Act (Chapter 11 (commencing with Section 25950), Division 20 of the Health and Safety Code), other than those contained in that act, shall be imposed. Females found to be pregnant and desiring abortions, shall be permitted to determine their eligibility for an abortion pursuant to law, and if determined to be eligible, shall be permitted to obtain an abortion.

For the purposes of this section, "local juvenile facility" means any city, county, or regional facility used for the confinement of female juveniles for more than 24 hours.

The rights provided for females by this section shall be posted in at least one conspicuous place to which all females have access.

221. (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.

222. Any female in the custody of a local juvenile facility shall have the right to summon and receive the services of any physician and surgeon of her choice in order to determine whether she is pregnant. If she is found to be pregnant, she is entitled to a determination of the extent of the medical services needed by her and to the receipt of such services from the physician and surgeon of her choice. Any expenses occasioned by the services of a physician and surgeon whose services are not provided by the facility shall be borne by such female.

For the purpose of this section, "local juvenile facility" means any city, county, or regional facility used for the confinement of juveniles for more than 24 hours.

The rights provided for females by this section shall be posted in at least one conspicuous place to which all female wards have access.

SEC. 2. Article 2 (commencing with Section 225) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 2. Commissions and Committees

225. In each county there shall be a juvenile justice commission consisting of not less than 7 and no more than 15 citizens. Each person serving as a member of a probation committee immediately prior to September 15, 1961, shall be a member of the juvenile justice commission and shall continue to serve as such until such time as his term of appointment as a member of the probation committee would have expired under any prior provision of law. Upon a vacancy occurring in the membership of the commission and upon the expiration of the term of office of any member, a successor shall be appointed by the presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court for a term of four years.

When a vacancy occurs for any reason other than the expiration of a term of office, the appointee to fill such vacancy shall hold office for the unexpired term of his predecessor.

Appointments may be made by the presiding judge of the superior court, in the same manner designated in this section for the filling of vacancies, to increase the membership of a commission to the maximum of 15 in any county which has a commission with a membership of less than 15 members.

In any county in which the membership of the commission, on the effective date of amendments to this section enacted at the 1971 Regular Session of the Legislature, exceeds the maximum number permitted by this section, no additional appointments shall be made until the number of commissioners is less than the maximum number permitted by this section. In any case, such county's commission membership shall, on or after January 1, 1974, be no greater than the maximum permitted by this section.

226. In lieu of county juvenile justice commissions, the boards of supervisors of two or more adjacent counties may agree to establish a regional juvenile justice commission consisting of not less than eight citizens, and having a sufficient number of members so that their appointment may be equally apportioned between the participating counties. The presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court of each of the participating counties shall appoint an equal number of members to the regional justice commission and they shall hold office for a term of four years. Of those first appointed, however, if the number appointed be an even number, half shall serve for a term of two years and half shall serve for a term of four years and if the number of members first appointed be an odd number, the greater number nearest half shall serve for a term of two years and the remainder shall serve for a term of four years. The respective terms of the members first appointed shall be determined by lot as soon as possible after their appointment. Upon a vacancy occurring in the membership of the commission and upon the expiration of the term of office of any member, a successor shall be appointed by the presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court of the county which originally appointed such vacating or retiring member. When a vacancy occurs for any reason other than the expiration of a term of office, the appointee shall hold office for the unexpired term of his predecessor.

227. The clerk of the court of the appointing judge shall immediately notify each person appointed a member of a county or regional juvenile justice commission and thereupon such person shall appear before the appointing judge and qualify by taking an oath faithfully to perform the duties of a member of the juvenile justice

commission. The qualification of each member shall be entered in the juvenile court record.

228. A juvenile justice commission shall elect a chairman and vice chairman annually.

229. It shall be the duty of a juvenile justice commission to inquire into the administration of the juvenile court law in the county or region in which the commission serves. For this purpose the commission shall have access to all publicly administered institutions authorized or whose use is authorized by this chapter situated in the county or region, shall inspect such institutions no less frequently than once a year, and may hold hearings. A judge of the juvenile court shall have the power to issue subpoenas requiring attendance and testimony of witnesses and production of papers at hearings of the commission.

A juvenile justice commission shall annually inspect any jail or lockup within the county which in the preceding calendar year was used for confinement for more than 24 hours of any minor. It shall report the results of such inspection together with its recommendations based thereon, in writing, to the juvenile court and to the Youth Authority.

230. A juvenile justice commission may recommend to any person charged with the administration of any of the provisions of this chapter such changes as it has concluded, after investigation, will be beneficial. A commission may publicize its recommendations.

231. Members of a juvenile justice commission shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. Such reimbursement shall be made by the county of appointment or, in lieu of such actual and necessary expenses the board of supervisors may provide that the members of the commission shall be paid not to exceed the sum of twenty-five dollars ($25) per meeting not exceeding two meetings per month. In the case of a regional justice commission, the duty of reimbursement shall be divided among the participating counties in the manner prescribed by agreement of the boards of supervisors.

232. The board of supervisors may by ordinance provide for the establishment, support, and maintenance of one or more agencies or departments to cooperate with and assist in coordinating on a countywide basis the work of those community agencies engaged in activities designed to prevent juvenile and adult delinquency; and such agencies or departments may cooperate with any such public or community committees, agencies, or councils at their invitation.

233. The board of supervisors may by ordinance provide for the establishment, support, and maintenance of a delinquency prevention commission, composed of not fewer than seven citizens, to coordinate on a countywide basis the work of those governmental and nongovernmental organizations engaged in activities designed to prevent juvenile delinquency. If the board so elects, it may designate the juvenile justice commission, or any other committee or council appointed pursuant to Section 232 or 235, to serve in such capacity.

The commission may receive funds from governmental and nongovernmental sources to hire an executive secretary and necessary staff and to defray needed administrative expenses. The board of supervisors may direct any county department to provide necessary staff service to the commission. The commission may expend its funds on specific projects designed to accomplish its objectives.

Members of the delinquency prevention commission shall be appointed by the board of supervisors to serve a term of four years, and they shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. Upon a vacancy occurring in the membership in the commission and upon the expiration in the term of office of any member, a successor shall be appointed by the board of supervisors. When a vacancy occurs for any reason other than the expiration of a term of office, the appointee to fill such vacancy shall hold office for the unexpired term of his predecessor.

The board of supervisors may appoint initial members to any delinquency prevention commission created after the effective date of the amendment made to this section at the 1973–74 Regular Session of the Legislature to hold office for the following terms: one-half of the membership of an even-numbered commission for a term of two years and one-half plus one of the membership of an odd-numbered commission for a term of two years. The remaining initial members and the term of office of each successor appointed to fill a vacancy occurring on the expiration of a term thereafter shall be four years.

For a delinquency prevention commission existing on the effective date of the amendment made to this section at the 1973–74 Regular Session of the Legislature the board of supervisors may at any time upon the expiration of all the members' terms of office appoint members to hold office for the following terms: one-half of the membership of an even-numbered commission for a term of two years and one-half plus one of the membership of an odd-numbered commission for a term of two years. The remaining members and the term of office of each successor appointed to fill a vacancy occurring on the expiration of a term thereafter shall be four years.

Notwithstanding the preceding provisions of this section, the board of supervisors may appoint one or more persons under 18 years of age to membership on a delinquency prevention commission. If only one such person is appointed, the term of office of that person shall be two years; if more than one is appointed, no more than one-half shall be appointed to serve for a term of two years, and the other or others shall serve for a term of one year.

234. The board of supervisors may by ordinance provide for the establishment, support, and maintenance of a delinquency prevention agency or department, or may assign delinquency prevention duties to any existing county agency, or department. Any

such agency or department may engage in activities designed to prevent juvenile and adult delinquency, including rendering direct and indirect services to persons in the community, and may cooperate with any other agency of government in carrying out its purposes.

235. The juvenile court and the probation department of any county may establish, or assist in the establishment of, any public council or committee having as its object the prevention of juvenile delinquency and may cooperate with, or participate in, the work of any such councils or committees for the purpose of preventing or decreasing juvenile delinquency, including the improving of recreational, health, and other conditions in the community affecting juvenile welfare.

236. Notwithstanding any other provision of law, probation departments may engage in activities designed to prevent juvenile delinquency. These activities include rendering direct and indirect services to persons in the community. Probation departments shall not be limited to providing services only to those persons on probation being supervised under Section 330 or 654, but may provide services to any juveniles in the community.

SEC. 3. Article 3 (commencing with Section 240) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 3. Probation Committee

240. In counties having a population in excess of 2,000,000 in lieu of a county juvenile justice commission, there shall be a probation committee consisting of not less than seven members who shall be appointed by the same authority as that authorized to appoint the probation officer in such county.

241. The members of a probation committee appointed and holding office under prior provisions of law on the effective date of this article, shall continue in office and shall be members of the probation committee created hereby for the same term as that for which they were appointed.

242. The members of the probation committee shall hold office for four years and until their successors are appointed and qualify. Of those first appointed, however, one shall hold office for one year, two for two years, two for three years, and two for four years; and the respective terms of the members first appointed shall be determined by lot as soon as possible after their appointment. When a vacancy occurs in a probation committee by expiration of the term of office of any member thereof, his successor shall be appointed to hold office for the term of four years. When a vacancy occurs for any other reason the appointee shall hold office for the unexpired term of his predecessor.

243. The probation committee shall function in an advisory capacity to the probation officer.

SEC. 4. Article 4 (commencing with Section 245) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 4. The Juvenile Court

245. Each superior court shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of such jurisdiction, shall be known and referred to as the juvenile court.

246. In counties having more than one judge of the superior court, the presiding judge of such court or the senior judge if there is no presiding judge shall annually, in the month of January, designate one or more judges of the superior court to hear all cases under this chapter during the ensuing year, and he shall, from time to time, designate such additional judges as may be necessary for the prompt disposition of the judicial business before the juvenile court.

In all counties where more than one judge is designated as a judge of the juvenile court, the presiding judge of the superior court shall also designate one such judge as presiding judge of the juvenile court.

247. The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court or the senior judge if there is no presiding judge, may appoint one or more referees to serve on a full-time or part-time basis. A referee shall serve at the pleasure of the appointing judge, and unless the appointing judge makes his order terminating the appointment of a referee, such referee shall continue to serve as such until the appointment of his successor. Except as otherwise provided by law, the amount and rate of compensation to be paid referees shall be fixed by the board of supervisors. Every referee first appointed on or after September 15, 1961, and prior to the effective date of the amendment of this section enacted at the 1971 Regular Session of the Legislature shall have been admitted to practice before the Supreme Court of this state for at least five years or have had at least five years' experience in probation work at the supervising level or have had a combination of such experience in law, probation work, or any of them aggregating five years. Every referee first appointed on or after the effective date of the amendment of this section enacted at the 1971 Regular Session of the Legislature shall have been admitted to practice law in this state and, in addition, shall have been admitted to practice law in this state for a period of not less than five years or in any other state and this state for a combined period of not less than 10 years. Nothing in this section shall be construed to apply to the qualifications of any referee first appointed prior to September 15, 1961.

248. A referee shall hear such cases as are assigned to him by the presiding judge of the juvenile court, with the same powers as a judge of the juvenile court. A referee shall promptly furnish to the presiding judge of the juvenile court and the minor, if the minor is 14 or more years of age or if younger has so requested, and shall serve

upon the minor's attorney of record and the minor's parent or guardian or adult relative and the attorney of record for the minor's parent or guardian or adult relative a written copy of his findings and order and shall also furnish to the minor, if the minor is 14 or more years of age or if younger has so requested, and to the parent or guardian or adult relative, with the findings and order, a written explanation of the right of such persons to seek review of the order by the juvenile court. Service, as provided in this section, shall be by mail to the last known address of such persons or to the address designated by such persons appearing at the hearing before the referee.

249. No order of a referee removing a minor from his home shall become effective until expressly approved by a judge of the juvenile court.

250. Except as provided in Section 251, all orders of a referee other than those specified in Section 249 shall become immediately effective, subject also to the right of review as hereinafter provided, and shall continue in full force and effect until vacated or modified upon rehearing by order of the judge of the juvenile court. In a case in which an order of a referee becomes effective without approval of a judge of the juvenile court, it becomes final on the expiration of the time allowed by Section 252 for application for rehearing, if application therefor is not made within such time and if the judge of the juvenile court has not within such time ordered a rehearing pursuant to Section 253.

251. The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court may establish requirements that any or all orders of referees shall be expressly approved by a judge of the juvenile court before becoming effective.

252. At any time prior to the expiration of 10 days after service of a written copy of the order and findings of a referee, a minor or his parent or guardian may apply to the juvenile court for a rehearing. Such application may be directed to all or to any specified part of the order or findings, and shall contain a statement of the reasons such rehearing is requested. If all of the proceedings before the referee have been taken down by an official reporter, the judge of the juvenile court may, after reading the transcript of such proceedings, grant or deny such application. If proceedings before the referee have not been taken down by an official reporter, such application shall be granted as of right. If an application for rehearing is not granted within 20 days following the date of its receipt, it shall be deemed denied. However, the court, for good cause, may extend such period beyond 20 days, but not in any event beyond 45 days, following the date of receipt of the application, at which time the application for rehearing shall be deemed denied unless it is granted within such period.

253. A judge of the juvenile court may, on his own motion made within 20 judicial days of the hearing before a referee, order a

rehearing of any matter heard before a referee.

254. All rehearings of matters heard before a referee shall be before a judge of the juvenile court and shall be conducted de novo.

255. The judge of the juvenile court, or in counties having more than one judge of the juvenile court the presiding judge of the juvenile court or the senior judge if there is no presiding judge, may appoint one or more persons of suitable experience, who may be judges of the municipal court or justices of the justice court or a probation officer or assistant or deputy probation officers, to serve as traffic hearing officers on a full-time or part-time basis. A hearing officer shall serve at the pleasure of the appointing judge, and unless the appointing judge makes his order terminating the appointment of a hearing officer, such hearing officer shall continue to serve as such until the appointment of his successor. The board of supervisors shall determine whether any compensation shall be paid to hearing officers, not otherwise employed by a public agency or holding another public office, and shall establish the amounts and rates thereof. An appointment of a probation officer, assistant probation officer, or deputy probation officer as a traffic hearing officer may be made only with the consent of the probation officer.

256. Subject to the orders of the juvenile court, a traffic hearing officer may hear and dispose of any and all cases wherein a minor under the age of 18 years as of the date of the alleged offense is charged with any violation of the Vehicle Code not declared to be a felony, or a violation of subdivision (m) of Section 602 of the Penal Code, or a violation of the Fish and Game Code not declared to be a felony, or a violation of any of the equipment and registration provisions of the Harbors and Navigation Code, or a violation of any provision of an ordinance of a city or county relating to traffic offenses or a violation of Section 126 or 27176 of the Streets and Highways Code.

257. With the consent of the minor, a hearing before a traffic hearing officer or a hearing before a referee or a judge of the juvenile court wherein such minor is charged with such traffic offense may be conducted upon an exact legible copy of a written notice given pursuant to Article 2 (commencing with Section 40500) of Chapter 2 of Division 17 or Section 41103 of the Vehicle Code, or an exact legible copy of a written notice given pursuant to Chapter 5C (commencing with Section 853.6) of Title 3 of Part 2 of the Penal Code when the offense charged is either a violation of the Fish and Game Code not declared to be a felony or a violation of subdivision (m) of Section 602 of the Penal Code, in lieu of a petition as provided in Article 16 (commencing with Section 650) of this chapter.

258. (a) Upon a hearing conducted in accordance with Section 257, upon an admission by the minor of the commission of a traffic violation charged, or upon a finding that the minor did in fact commit such traffic violation, the judge, referee, or traffic hearing officer may do any of the following:

(1) Reprimand the minor and take no further action;

(2) Direct the probation officer to file a petition as provided for in Article 8 (commencing with Section 325) of this chapter; or

(3) Make any or all of the following orders:

(i) That the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges, that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

(ii) That the minor attend traffic school over a period not to exceed 60 days.

(iii) That the minor pay to the general fund of the county a sum, not to exceed fifty dollars ($50), and to the Driver Training Penalty Assessment Fund a penalty assessment in the amount provided in Section 42050 of the Vehicle Code for offenses not relating to parking or registration or offenses by pedestrians. Any judge, referee, or traffic hearing officer may waive a penalty assessment if the amount the minor is ordered to pay to the general fund of the county is less than ten dollars ($10).

(iv) That the probation officer undertake a program of supervision of the minor for a period not to exceed six months.

(v) That the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to Section 40150 of the Vehicle Code.

(vi) That the minor work in a city park or recreational facility or county or regional park for not to exceed 25 hours over a period not to exceed 30 days, during times other than his hours of school attendance or employment. When the order to work is made by a referee or a traffic hearing officer, it shall be approved by a judge of the juvenile court.

(b) The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

259. Upon a hearing conducted in accordance with Section 257, upon admission by the minor of the commission of a violation of the Fish and Game Code charged, or upon a finding that the minor did in fact commit such violation of the Fish and Game Code, the judge, referee, or traffic hearing officer may

(a) Reprimand the minor and take no further action, or

(b) Direct the probation officer to file a petition as provided for in Article 16 (commencing with Section 650) of this chapter, or

(c) Make any or all of the following orders:

(1) That the fish and game license involved be suspended or restricted,

(2) That the minor pay to the general fund of the county a sum, not to exceed twenty-five dollars ($25),

(3) That the minor work in a park or conservation area for a total of not to exceed eight hours over a period not to exceed 30 days,

during times other than his hours of school attendance or employment.

The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

260. A traffic hearing officer shall promptly furnish a written report of his findings and orders to the clerk of the juvenile court. The clerk of the juvenile court shall promptly transmit an abstract of such findings and orders to the Department of Motor Vehicles.

261. Subject to the provisions of Section 262, all orders of a traffic hearing officer shall be immediately effective.

262. Upon motion of the minor or his parent or guardian for good cause, or upon his own motion, a judge of the juvenile court may set aside or modify any order of a traffic hearing officer, or may order or himself conduct a rehearing. If the minor or parent or guardian has made a motion that the judge set aside or modify the order or has applied for a rehearing, and the judge has not set aside or modified the order or ordered or conducted a rehearing within 10 days after the date of the order, the motion or application shall be deemed denied as of the expiration of such period.

263. At any time prior to the final disposition of a hearing pursuant to Section 257, the judge, referee, or traffic hearing officer may, on motion of the minor, his parent, or guardian, or on its own motion, transfer the case to the county of the minor's residence for further proceedings pursuant to Sections 258, 260, 261, and 262.

264. At the direction and under the supervision of the Judicial Council, judges of the juvenile courts and juvenile court referees shall meet from time to time in statewide or regional conferences, to discuss problems arising in the course of administration of this chapter, for the purpose of improving the administration of justice in the juvenile courts. Actual and necessary expenses incurred by a judge or referee in attending any such conference shall be a charge upon the county.

265. The Judicial Council shall establish rules governing practice and procedure in the juvenile court not inconsistent with law.

SEC. 5. Article 5 (commencing with Section 270) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 5. Probation Officers

270. There shall be in each county the offices of probation officer, assistant probation officer, and deputy probation officer. A probation officer shall be appointed in every county.

Probation officers in any county shall be nominated by the juvenile justice commission or regional juvenile justice commission of such county in such manner as the judge of the juvenile court in that county shall direct, and shall then be appointed by such judge.

The probation officer may appoint as many deputies or assistant

probation officers as he desires; but such deputies or assistant probation officers shall not have authority to act until their appointments have been approved by a majority vote of the members of the juvenile justice commission, and by the judge of the juvenile court. The term of office of each such deputy or assistant probation officer shall expire with the term of the probation officer who appointed him, but the probation officer, with the written approval of the majority of the members of the juvenile justice commission and of the judge of the juvenile court, may, in his discretion, revoke and terminate any such appointment at any time.

Probation officers may at any time be removed by the judge of the juvenile court for good cause shown; and the judge of the juvenile court may in his discretion at any time remove any such probation officer with the written approval of a majority of the members of the juvenile justice commission.

271. In counties having charters which provide a method of appointment and tenure of office for probation officers, assistant probation officers, deputy probation officers, and the superintendent, matron, and other employees of the juvenile hall, such charter provisions shall control as to such matters, and in counties which have established or hereafter establish merit or civil service systems governing the methods of, appointment and the tenure of office of, probation officers, assistant probation officers, deputy probation officers, and of the superintendents, matrons and other employees of the juvenile hall, the provisions of such merit or civil service systems shall control as to such matters; but in all other counties, such matters shall be controlled exclusively by the provisions of this code.

272. The board of supervisors may delegate to the county welfare department all or part of the duties of the probation officer, including those specified by Section 306, concerning dependent children described in Section 300.

273. The probation officer may, within budgetary limitations established by the board of supervisors, employ such psychiatrists, psychologists, and other clinical experts as are required to assist in determining appropriate treatment of minors within the jurisdiction of the juvenile court and in the implementation of such treatment.

274. Each probation officer and each assistant and deputy probation officer receiving an official salary shall furnish a bond in the sum of not more than two thousand dollars ($2,000) and approved by the judge of the juvenile court, conditioned for the faithful discharge of the duties of his office. If such bonds, or any of them, are furnished by a surety company licensed to transact business in the state, the premium thereon shall be paid out of the county treasury. In the event the probation officer, assistants and deputies are included as covered employees in a master bond pursuant to Sections 1481 and 1481.1 of the Government Code, the individual bonds prescribed above shall not be required.

275. For the purpose of handling the reimbursement and other

payments provided for in this chapter, the probation officer or other county officer designated by the board of supervisors of the county shall keep suitable books and accounts and shall give and keep suitable receipts and vouchers. The auditor of the county shall audit such books and accounts annually, or at least biennially if so ordered by the board of supervisors upon the recommendation of the county auditor, on a fiscal year basis ending June 30 and shall make a report thereon to the judge of the court and to the supervisors of the county prior to the 31st day of the next succeeding month of January.

276. In addition to the powers and duties of the probation officer elsewhere prescribed in this chapter, he is authorized to receive money, give his receipt therefor, deposit or invest such money as soon as practicable in the county treasury, in a commercial bank account designated and approved for such a purpose by the board of supervisors, or in investment certificates or share accounts issued by a savings and loan association doing business in this state, insured by the Federal Savings and Loan Insurance Corporation and designated and approved for such purpose by the board of supervisors, and direct the disbursement thereof, in any of the following instances:

(a) Money payable to spouse or child in an action for divorce, separate maintenance, or similar action, together with court costs and attorney's fees, upon order of a court of competent jurisdiction. Instead of designating the probation officer to act as court trustee for the receipt and disbursement of money payable to a spouse or child under this subdivision, the court may designate in its order a bonded employee of the court to act as court trustee for that purpose.

(b) Money payable to or on behalf of a ward or dependent child of the juvenile court or a person concerning whom a petition has been filed in the juvenile court. The probation officer may petition the court for approval of any past or prospective disbursement.

(c) Money payable to, by, or on behalf of probationers under the supervision of the probation officer. The probation officer may petition the court for approval of any past or prospective disbursement.

(d) Money payable to a child, wife, or indigent parent when it has been alleged or claimed that there has been a violation of either Section 270, 270a, or 270c of the Penal Code and the matter has been referred to the probation officer by the district attorney.

(e) Gifts of money made to the county to assist in the prevention or correction of delinquency or crime when the donor requests the probation officer to disburse such funds for such purposes and the board of supervisors accepts the gift upon such conditions.

(f) Other similar cases.

In addition to the foregoing, the probation officer is authorized to receive money payable to the county when ordered to do so by a court of competent jurisdiction. Such money shall be deposited or invested in the same manner as the other items set forth in this section.

If a bank account or savings and loan association investment

certificate or share account is authorized pursuant to this section, the probation officer must pay into the county treasury all money collected by him or under his control during the preceding month that is payable into the treasury in conformity with Section 24353 of the Government Code.

277. The probation officer may authorize the sale of articles of handiwork made by wards under the jurisdiction of the probation officer to the public at probation institutions, in public buildings, at fairs, or on property operated by nonprofit associations. The cost of any county materials or other property consumed in the manufacture of articles shall be paid for out of funds received from the sale of the articles. The remainder of any funds received from the sale of the articles shall be placed in the ward's trust account pursuant to subdivision (b) of Section 276.

278. The board of supervisors may delegate to the auditor or other county officer any of the functions of the probation officer authorized by Section 276 and required by Sections 1685 to 1687, inclusive, of the Code of Civil Procedure.

279. The board of supervisors may impose a service charge at a uniform rate sufficient to defray the cost of services of the probation officer or other officer designated to act as trustee, not exceeding 2 percent of the amount collected, in addition to the payments made under subdivision (a), (c), (d), or (f) of Section 276.

The service charge imposed in relation to payments under subdivision (c) of Section 276 shall be imposed only for payments made by probationers, and the service charge imposed in relation to payments made under subdivision (f) of Section 276 shall be imposed only for cases similar to those listed in subdivision (a), (c), or (d) of that section.

When the payments are ordered by the court, the payment of the service charge shall be included in the order. All proceeds shall be deposited in the general fund of the county.

280. Except where waived by the probation officer, judge or referee and the minor, the probation officer shall be present in court to represent the interests of each person who is the subject of a petition to declare such person to be a ward or dependent child upon all hearings or rehearings of his case, and shall furnish to the court such information and assistance as the court may require. If so ordered, he shall take charge of such person before and after any hearing or rehearing.

It shall be the duty of the probation officer to prepare for every hearing on the disposition of a case as provided by Section 356 or 702 a social study of the minor, containing such matters as may be relevant to a proper disposition of the case. Such social study shall include a recommendation for the disposition of the case.

281. The probation officer shall upon order of any court in any matter involving the custody, status, or welfare of a minor or minors, make an investigation of appropriate facts and circumstances and prepare and file with the court written reports and written

recommendations in reference to such matters. The court is authorized to receive and consider the reports and recommendations of the probation officer in determining any such matter.

282. At any time the judge of the juvenile court may, and upon the request of the county board of supervisors shall, require the probation officer to examine into and report to the court upon the qualifications and management of any society, association, or corporation, other than a state institution, which applies for or receives custody of any ward or dependent child of the juvenile court. No probation officer, however, shall, under authority of this section, enter any institution without its consent. If such consent is refused, commitments to that institution shall not be made.

283. Every probation officer, assistant probation officer, and deputy probation officer shall have the powers and authority conferred by law upon peace officers listed in Section 830.5 of the Penal Code.

284. All probation officers shall make such special and periodic reports to the Youth Authority as the authority may require and upon forms furnished by the authority.

285. All probation officers shall make such periodic reports to the Bureau of Criminal Statistics as the bureau may require and upon forms furnished by the bureau.

286. Any person lawfully appointed to serve as a probation officer or assistant or deputy probation officer prior to the effective date of this section shall continue in his office or employment as if appointed in the manner prescribed by this article.

SEC. 6. Article 6 (commencing with Section 300) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 6. Dependent Children—Jurisdiction

300. Any person under the age of 18 years who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge such person to be a dependent child of the court:

(a) Who is in need of proper and effective parental care or control and has no parent or guardian, or has no parent or guardian willing to exercise or capable of exercising such care or control, or has no parent or guardian actually exercising such care or control.

(b) Who is destitute, or who is not provided with the necessities of life, or who is not provided with a home or suitable place of abode.

(c) Who is physically dangerous to the public because of a mental or physical deficiency, disorder or abnormality.

(d) Whose home is an unfit place for him by reason of neglect, cruelty, depravity, or physical abuse of either of his parents, or of his guardian or other person in whose custody or care he is.

301. The court may retain jurisdiction over any person who is

found to be a dependent child of the juvenile court until such ward or dependent child attains the age of 21 years.

SEC. 7. Article 7 (commencing with Section 305) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 7. Dependent Children—Temporary Custody and Detention

305. A peace officer may, without a warrant, take into temporary custody a minor:

(a) Who is under the age of 18 years when such officer has reasonable cause for believing that such minor is a person described in Section 300.

(b) Who is a dependent child of the juvenile court or concerning whom an order has been made under Section 320 or 356 when such officer has reasonable cause for believing that person has violated an order of the juvenile court or has escaped from any commitment ordered by the juvenile court, or

(c) Who is under the age of 18 years and who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

306. Any social worker in a county welfare department, while acting within the scope of his regular duties under the direction of the probation department or juvenile court and pursuant to Section 272, may do the following:

(a) Receive and maintain, pending court hearing, temporary custody of a minor under 18 who is described in Section 300, and who has been delivered by the probation officer.

(b) Take into temporary custody and maintain temporary custody of, without a warrant, a minor under 18 who has been declared a dependent child of the juvenile court under Section 300, and is in need of such care.

307. An officer who takes a minor into temporary custody under the provisions of Section 305 shall thereafter proceed as follows:

(a) He may release such minor; or

(b) He may prepare in duplicate a written notice to appear before the probation officer of the county in which such minor was taken into custody at a time and place specified in the notice. The notice shall also contain a concise statement of the reasons such minor was taken into custody. He shall deliver one copy of the notice to such minor or to a parent, guardian, or responsible relative of such minor and may require such minor or his parent, guardian, or relative, or both, to sign a written promise that either or both will appear at the time and place designated in the notice. Upon the execution of the promise to appear, he shall immediately release such minor. He shall, as soon as practicable, file one copy of the notice with the probation officer; or

(c) He may take such minor without unnecessary delay before the

probation officer of the county in which such person was taken into custody, or in which such person resides, or in which the acts take place or the circumstances exist which are alleged to bring the minor within the provisions of Section 300, and deliver the custody of such minor to the probation officer.

In determining which disposition of the minor he will make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, provided such alternative is compatible with the best interests of the minor and the community.

308. (a) When an officer takes a minor before a probation officer at a juvenile hall or to any other place of confinement pursuant to this article, he shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he is being held.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than three hours after he has been taken into custody, the minor has the right to make at least two telephone calls from the place where he is being held, one call completed to his parent or guardian, a responsible relative, or his employer, and another call completed to an attorney. The calls shall be at his own expense and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his right to make such telephone calls is guilty of a misdemeanor.

309. (a) Upon delivery to the probation officer of a minor who has been taken into temporary custody under the provisions of this article, the probation officer shall immediately investigate the circumstances of the minor and the facts surrounding his being taken into custody and shall immediately release such minor to the custody of his parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The minor is in need of proper and effective parental care or control and has no parent, guardian, or responsible relative; or has no parent, guardian, or responsible relative willing to exercise or capable of exercising such care or control; or has no parent, guardian, or responsible relative actually exercising such care or control.

(2) The minor is destitute or is not provided with the necessities of life or is not provided with a home or suitable place of abode.

(3) The minor is provided with a home which is an unfit place for him by reason of neglect, cruelty, depravity or physical abuse of either of his parents, or of his guardian or other person in whose custody or care he is.

(4) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another.

(5) The minor is likely to flee the jurisdiction of the court.

(6) The minor has violated an order of the juvenile court.

(7) The minor is physically dangerous to the public because of a mental or physical deficiency, disorder or abnormality.

(b) In any case in which there is reasonable cause for believing that a minor who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in subdivision (d) of Section 300, the minor shall be deemed to have been taken into temporary custody and delivered to the probation officer for the purposes of this chapter while he is at the office of the physician or surgeon or such medical facility.

310. As a condition for the release of such minor, the probation officer may require such minor or his parent, guardian, or relative, or both, to sign a written promise that either or both of them will appear before the probation officer at the juvenile hall or other suitable place designated by the probation officer at a specified time.

311. (a) If the probation officer determines that the minor shall be retained in custody, he shall immediately file a petition pursuant to Section 332 with the clerk of the juvenile court who shall set the matter for hearing on the detention hearing calendar. The probation officer shall thereupon notify each parent or each guardian of the minor of the time and place of such hearing if the whereabouts of each parent or guardian can be ascertained by due diligence, and the probation officer shall serve those persons entitled to notice of the hearing under the provisions of Section 335 with a copy of the petition and notify such persons of the time and place of the detention hearing. Such notice may be given orally.

(b) In such hearing the minor has a privilege against self-incrimination and has a right to confrontation by, and cross-examination of, any person examined by the court as provided in Section 319.

312. Upon reasonable notification by counsel representing the minor, his parents or guardian, the clerk of the court shall notify such counsel of the hearings in the manner provided for notice to the parent or guardian of the minor under this chapter.

313. (a) Whenever a minor is taken into custody by a peace officer or probation officer, except when such minor willfully misrepresents himself as 18 or more years of age, such minor shall be released within 48 hours after having been taken into custody, excluding nonjudicial days, unless within said period of time a petition to declare him a dependent child has been filed pursuant to the provisions of this chapter.

(b) Whenever a minor who has been held in custody for more than six hours by the probation officer is subsequently released and no petition is filed, the probation officer shall prepare a written explanation of why the minor was held in custody for more than six hours. The written explanation shall be prepared within 72 hours after the minor is released from custody and filed in the record of the case. A copy of the written explanation shall be sent to the parents, guardian, or other person having care or custody of the minor.

314. When a minor willfully misrepresents himself to be 18 or more years of age when taken into custody by a peace officer or

probation officer, and this misrepresentation effects a material delay in investigation which prevents the filing of a petition pursuant to the provisions of this chapter, such petition or complaint shall be filed within 48 hours from the time his true age is determined, excluding nonjudicial days. If, in such cases, the petition is not filed within the time prescribed by this section, the minor shall be immediately released from custody.

315. Unless sooner released, a minor taken into custody under the provisions of this article shall be brought before a judge or referee of the juvenile court for a hearing (which shall be referred to as a "detention hearing") to determine whether the minor shall be further detained, as soon as possible but in any event before the expiration of the next judicial day after a petition to declare such minor a ward or dependent child has been filed. If the minor is not brought before a judge or referee of the juvenile court within the period prescribed by this section, he shall be released from custody.

316. Upon his appearance before the court at the detention hearing, such minor and his parent or guardian, if present, shall first be informed of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and the right of such minor and his parent or guardian to be represented at every stage of the proceedings by counsel.

317. When it appears to the court that the minor or his parent or guardian desires counsel but is unable to afford and cannot for that reason employ counsel, the court may appoint counsel. In any case in which it appears to the court that there is such a conflict of interest between a parent or guardian and child that one attorney could not properly represent both, the court shall appoint counsel, in addition to counsel already employed by a parent or guardian or appointed by the court to represent the minor or parent or guardian. In a county where there is no public defender the court may fix the compensation to be paid by the county for service of such appointed counsel.

318. (a) Notwithstanding the provisions of Section 317, when a minor who is alleged to be a person described in subdivision (d) of Section 300 appears before the juvenile court at a detention hearing, the court shall appoint counsel. The court may appoint the district attorney to represent the minor pursuant to Section 351.

(b) The counsel appointed by the court shall represent the minor at the detention hearing and at all subsequent proceedings before the juvenile court.

(c) Any counsel upon entering an appearance on behalf of a minor shall continue to represent that minor unless relieved by the court upon the substitution of other counsel or for cause.

319. The court will examine such minor, his parent, guardian, or other person having relevant knowledge, hear such relevant evidence as the minor, his parent or guardian or their counsel desires to present, and, unless it appears that such minor has violated an order of the juvenile court or has escaped from the commitment of

the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or the person or property of another that he be detained or that such minor is likely to flee the jurisdiction of the court, the court shall make its order releasing such minor from custody.

320. If it appears upon the hearing that such minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or the person or property of another that he be detained or that such minor is likely to flee the jurisdiction of the court, the court may make its order that such minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter said order together with its findings of fact in support thereof in the records of the court.

321. 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.

322. Upon motion of the minor or a parent or guardian of such minor, the court shall continue any hearing or rehearing held under the provisions of this article for one day, excluding Sundays and nonjudicial days.

323. Upon any hearing or rehearing under the provisions of this article, the court may order such minor or any parent or guardian of such minor who is present in court to again appear before the court or the probation officer at a time and place specified in said order.

324. Whenever any minor is taken into temporary custody under the provisions of this article in any county other than the county in which the minor is alleged to be within or to come within the jurisdiction of the juvenile court, which county is referred to herein as the requesting county, the officer who has taken the minor into temporary custody may notify the law enforcement agency in the requesting county of the fact that the minor is in custody. When a law enforcement officer, of such requesting county files a petition

pursuant to Section 332 with the clerk of the juvenile court of his respective county and secures a warrant therefrom, he shall forward said warrant, or a telegraphic copy thereof to the officer who has the minor in temporary custody as soon as possible within 48 hours, excluding Sundays and nonjudicial days, from the time said juvenile was taken into temporary custody. Thereafter an officer from said requesting county shall take custody of the minor within five days, in the county in which the minor is in temporary custody, and shall take the minor before the juvenile court judge who issued the warrant, or before some other juvenile court of the same county without unnecessary delay. If the minor is not brought before a judge of the juvenile court within the period prescribed by this section, he must be released from custody.

SEC. 8. Article 8 (commencing with Section 325) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 8. Dependent Children—Commencement of Proceedings

325. A proceeding in the juvenile court to declare a minor a dependent child of the court is commenced by the filing with the court, by the probation officer, of a petition, in conformity with the requirements of this article.

326. 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.

327. Either the juvenile court in the county in which a minor resides or in the county where the minor is found or in the county in which the acts take place or the circumstances exist which are alleged to bring such minor within the provisions of Section 300, is the proper court to commence proceedings under this chapter.

328. Whenever the probation officer has cause to believe that there was or is within the county, or residing therein, a person within the provisions of Section 300, the probation officer shall immediately make such investigation as he deems necessary to determine whether proceedings in the juvenile court should be commenced.

329. Whenever any person applies to the probation officer to commence proceedings in the juvenile court, such application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 300, and setting forth facts in support thereof. The probation officer shall immediately make such investigation as he deems necessary to

determine whether proceedings in the juvenile court should be commenced. If the probation officer does not take action under Section 330 and does not file a petition in the juvenile court within three weeks after such application, he shall endorse upon the affidavit of applicant his decision not to proceed further and his reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered by him under this section. The probation officer shall retain the affidavit and his endorsement thereon for a period of 30 days after such notice to applicant.

330. In any case in which a probation officer, after investigation of an application for petition or other investigation he is authorized to make, concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within such jurisdiction, he may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the minor's parent or guardian, undertake a program of supervision of the minor, for not to exceed six months, and attempt thereby to adjust the situation which brings the minor within the jurisdiction of the court or creates the probability that he will soon be within such jurisdiction. Nothing in this section shall be construed to prevent the probation officer from filing a petition at any time within said six-month period.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of restricted dangerous drugs or addiction to narcotics from a county mental health service or other appropriate community agency.

331. When any person has applied to the probation officer, pursuant to Section 329, to commence juvenile court proceedings and the probation officer fails to file a petition within three weeks after such application, such person may, within one month after making such application, apply to the juvenile court to review the decision of the probation officer, and the court may either affirm the decision of the probation officer or order him to commence juvenile court proceedings.

332. A petition to commence proceedings in the juvenile court to declare a minor a ward or a dependent child of the court shall be verified and must contain:

(a) The name of the court to which the same is addressed.

(b) The title of the proceeding.

(c) The code section or sections and subdivision or subdivisions under which the proceedings are instituted.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The name or names and residence address, if known to petitioner, of all parents and guardians of such minor. If there is no parent or guardian residing within the state, or if his place of residence is not known to petitioner, the petition must also contain the name and residence address, if known, of any adult relative residing within the county, or, if there be none, the adult relative

residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he is detained in custody, the date and the precise time the minor was taken into custody.

333. Any petition filed in juvenile court to commence proceedings pursuant to this chapter that is not verified may be dismissed without prejudice by such court.

334. Upon the filing of the petition, the clerk of the juvenile court shall set the same for hearing within 30 days, except that in the case of a minor detained in custody at the time of the filing of the petition, the petition must be set for hearing within 15 judicial days from the date of the order of the court directing such detention.

335. Upon the filing of the petition, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he shall cause the same to be served upon the minor, if the minor is 14 or more years of age, and upon each of the persons described in subdivision (e) of Section 332 whose residence addresses are set forth in said petition and thereafter before the hearing upon all such persons whose residence addresses become known to the clerk. The clerk shall issue a copy of the petition to the attorney for the minor's parent or guardian and to the district attorney, if the district attorney has notified the clerk of the court that he wishes to receive such petition, containing the time, date, and place of the hearing.

336. The notice shall contain:

(a) The name and address of the person to whom the notice is directed.

(b) The date, time, and place of the hearing on the petition.

(c) The name of the minor upon whose behalf the petition has been brought.

(d) Each section and subdivision under which the proceeding has been instituted.

(e) A statement that the minor and his parent or guardian or adult relative, as the case may be, to whom notice is required to be given, are entitled to have an attorney present at the hearing on the petition, and that, if the parent or guardian or such adult relative is indigent and cannot afford an attorney, and the minor or his parent or guardian or such adult relative desires to be represented by an attorney, such parent or guardian or adult relative shall promptly notify the clerk of the juvenile court.

337. (a) If the minor is detained the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive such notice and copy of the petition, either personally or by certified mail with request for return receipt, as soon as possible after filing of the petition and at least five days

prior to the time set for hearing, unless such hearing is set less than five days from the filing of the petition, in which case, such notice and copy of the petition must be served at least 24 hours prior to the time set for hearing.

(b) If the minor is not detained the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive such notice and copy of the petition, either personally, by certified mail with request for return receipt, or by first-class mail, at least 10 days prior to the time set for hearing. If such person is known to reside outside of the county, the clerk of the juvenile court shall mail the notice and copy of the petition, by certified mail with request for return receipt or by first-class mail, to such person, as soon as possible after filing of the petition and at least 10 days before the time set for hearing. Failure to respond to the notice by certified mail with request for return receipt or by first-class mail shall in no way result in arrest or detention. In the instance of failure to appear after notice by certified or first-class mail, the court shall direct that the notice and copy of the petition is to be personally served on all persons required to receive such notice and copy of the petition. Personal service of the notice and copy of the petition outside of the county at least 10 days before the time set for hearing is equivalent to such service by certified or first-class mail. Service may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service filed with the clerk of the court at or prior to the hearing.

338. In addition to the notice provided in Sections 335 and 336 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 257, 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.

339. In case such citation cannot be served, or the person served fails to obey it, or in any case in which it appears to the court that the citation will probably be ineffective, a warrant of arrest may issue on the order of the court either against the parent, or guardian, or the person having the custody of the minor, or with whom the minor is living.

340. Whenever a petition has been filed in the juvenile court alleging that a minor comes within the provisions of Section 300 and praying for a hearing thereon, or whenever any subsequent petition has been filed praying for a hearing in the matter of said minor and it appears to the court that the conduct and behavior of the said

minor may endanger the health, person, welfare, or property of himself or others, or that the circumstances of his home environment may endanger the health, person, welfare or property of said minor, a warrant of arrest may be issued immediately for the minor.

341. Upon request of the probation officer, district attorney, the minor or the minor's parent, guardian, or custodian, the court or the clerk of the court shall issue, and, on the court's own motion, it may issue subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under the provisions of this chapter. When a person attends a juvenile court hearing as a witness upon a subpoena at its discretion, the court may by an order on its minutes, direct the county auditor to draw his warrant upon the county treasurer in favor of such witness for witness fees in the amount and manner prescribed by Section 68093 of the Government Code. The fees are county charges.

SEC. 9. Article 9 (commencing with Section 345) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 9. Dependent Children—Hearings

345. All cases under the provisions of this chapter shall be heard at a special or separate session of the court, and no other matter shall be heard at such session. No person on trial, awaiting trial, or under accusation of crime, other than a parent, guardian, or relative of the minor, shall be permitted to be present at any such session, except as a witness.

Cases in which the minor is detained and the sole allegation is that the minor is a person described in Section 300 shall be granted precedence on the calendar of the court for the day on which the case is set for hearing.

346. Unless requested by the minor concerning whom the petition has been filed and any parent or guardian present, the public shall not be admitted to a juvenile court hearing. The judge or referee may nevertheless admit such persons as he deems to have a direct and legitimate interest in the particular case or the work of the court.

347. At any juvenile court hearing conducted by a juvenile court judge, an official court reporter shall, and at any such hearing conducted by a juvenile court referee, the official reporter, as directed by the court, may take down in shorthand all the testimony and all of the statements and remarks of the judge and all persons appearing at the hearing; and, if directed by the judge, or requested by the person on whose behalf the petition was brought, or by his parent or legal guardian, or the attorneys of such persons, he must, within such reasonable time after the hearing of the petition as the court may designate, write out the same or such specific portions thereof as may be requested in plain and legible longhand or by typewriter or other printing machine and certify to the same as

being correctly reported and transcribed, and when directed by the court, file the same with the clerk of the court. Unless otherwise directed by the judge, the costs of writing out and transcribing all or any portion of the reporter's shorthand notes shall be paid in advance at the rates fixed for transcriptions in a civil action by the person requesting the same.

348. The provisions of Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure relating to variance and amendment of pleadings in civil actions shall apply to petitions and proceedings under this chapter, to the same extent and with the same effect as if proceedings under this chapter were civil actions.

349. A minor who is the subject of a juvenile court hearing and any person entitled to notice of the hearing under the provisions of Section 335, is entitled to be present at such hearing. Any such minor and any such person has the right to be represented at such hearing by counsel of his own choice.

350. The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversary atmosphere with a view to obtaining the maximum cooperation of the minor upon whose behalf the petition is brought and all persons interested in his welfare with such provisions as the court may make for the disposition and care of such minor.

351. In a juvenile court hearing, where the minor who is the subject of the hearing is represented by counsel, the district attorney shall, with the consent or at the request of the juvenile court judge, appear and participate in the hearing to assist in the ascertaining and presenting of the evidence. Where the petition in a juvenile court proceeding alleges that a minor is a person described in subdivision (a), (b), or (d) of Section 300, and either of the parents, or the guardian, or other person having care or custody of the minor, or who resides in the home of the minor, is charged in a pending criminal prosecution based upon unlawful acts committed against the minor, the district attorney shall, with the consent or at the request of the juvenile court judge, represent the minor in the interest of the state at the juvenile court proceeding. The terms and conditions of such representation shall be with the consent or approval of the judge of the juvenile court.

352. (a) Upon request of counsel for the minor, the court may continue any hearing under this chapter beyond the time limit within which the hearing is otherwise required to be held.

(b) In any case in which the minor is represented by counsel and no objection is made to an order continuing any such hearing beyond the time limit within which the hearing is otherwise required to be held, the absence of such an objection shall be deemed a consent to the continuance.

353. At the beginning of the hearing on a petition filed pursuant to Article 8 (commencing with Section 325) of this chapter, the judge or clerk shall first read the petition to those present and upon request of the minor upon whose behalf the petition has been brought or upon the request of any parent, relative or guardian, the judge shall explain any term of allegation contained therein and the nature of the hearing, its procedures, and possible consequences. The judge shall ascertain whether the minor and his parent or guardian or adult relative, as the case may be, has been informed of the right of the minor to be represented by counsel, and if not, the judge shall advise the minor and such person, if present, of the right to have counsel present and where applicable, of the right to appointed counsel. If such person is unable to afford counsel and desires to have the minor represented by counsel, the court may in a case in which the minor is alleged to be within the provisions of Section 300, appoint counsel to represent the minor. The court shall continue the hearing for not to exceed seven days, as necessary to make an appointment of counsel, or to enable counsel to acquaint himself with the case, or to determine whether the parent or guardian or adult relative is unable to afford counsel at his own expense, and shall continue the hearing as necessary to provide reasonable opportunity for the minor and the parent or guardian or adult relative to prepare for the hearing.

354. Except where a minor is in custody, any hearing on a petition filed pursuant to Article 8 (commencing with Section 325) of this chapter may be continued by the court for not more than 10 days in addition to any other continuance authorized in this chapter whenever the court is satisfied that an unavailable and necessary witness will be available within such time.

355. At the hearing, the court shall first consider only the question whether the minor is a person described by Section 300, and for this purpose, any matter or information relevant and material to the circumstances or acts which are alleged to bring him within the jurisdiction of the juvenile court is admissible and may be received in evidence; however, proof by a preponderance of evidence, legally admissible in the trial of civil cases must be adduced to support a finding that the minor is a person described by Section 300. If the minor is not represented by counsel at the hearing, it shall be deemed that objections that could have been made to the evidence were made.

356. After hearing such evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly and shall then proceed to hear evidence on the question of the proper disposition to be made of the minor. Prior to doing so, it may continue the hearing, if

necessary, to receive the social study of the probation officer or to receive other evidence on its own motion or the motion of a parent or guardian for not to exceed 10 judicial days if the minor is detained during such continuance, and if the minor is not detained, it may continue the hearing to a date not later than 30 days after the date of filing of the petition. The court may, for good cause shown continue the hearing for an additional 15 days, if the minor is not detained. The court may make such order for detention of the minor or his release from detention, during the period of the continuance, as is appropriate.

357. Whenever the court, before or during the hearing on the petition, is of the opinion that the minor is mentally ill or if the court is in doubt concerning the mental health of any such person, the court may order that such person be held temporarily in the psychopathic ward of the county hospital or hospital whose services have been approved and/or contracted for by the department of health of the county, for observation and recommendation concerning the future care, supervision, and treatment of such person.

358. After finding that a minor is a person described in Section 300, the court shall hear evidence on the question of the proper disposition to be made of the minor. The court shall receive in evidence the social study of the minor made by the probation officer and such other relevant and material evidence as may be offered, and in any judgment and order of disposition, shall state the social study made by the probation officer has been read and considered by the court.

359. Whenever a minor who appears to be a danger to himself or others as a result of the use of narcotics (as defined in Section 11001 of the Health and Safety Code), or a resticted dangerous drug (as defined in Section 11901 of the Health and Safety Code), is brought before any judge of the juvenile court, the judge may continue the hearing and proceed pursuant to this section. The court may order the minor taken to a facility designated by the county and approved by the Department of Mental Hygiene as a facility for 72-hour treatment and evaluation. Thereupon the provisions of Section 11922 of the Health and Safety Code shall apply, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the minor.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not a danger to himself or others as a result of the use of narcotics or restricted dangerous drugs or that the minor does not require 14-day intensive treatment, or if the minor has been certified for not more than 14 days of intensive treatment and the certification is terminated, the minor shall be released if the juvenile court proceedings have been dismissed; referred for further care and treatment on a voluntary basis, subject to the disposition of the

juvenile court proceedings; or returned to the juvenile court, in which event the court shall proceed with the case pursuant to this chapter.

Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5, and shall be reimbursed by the state as are other local expenditures pursuant to that part.

SEC. 10. Article 10 (commencing with Section 360) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 10. Dependent Children—Judgments and Orders

360. After receiving and considering the evidence on the proper disposition of the case, the court, if the court has found that the minor is a person described by Section 300, may order and adjudge the minor to be a dependent child of the court.

361. In all cases wherein a minor is adjudged a dependent child of the court, the court may limit the control to be exercised over such dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations, but no dependent child shall be taken from the physical custody of a parent or guardian unless upon the hearing the court finds one of the following facts:

(a) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.

(b) That the welfare of the minor requires that his custody be taken from his parent or guardian.

362. When a minor is adjudged a dependent child of the court on the ground that he is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such minor, including medical treatment, subject to further order of the court.

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

42172 28 10345 729

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 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the 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 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian shall be required to participate in a counseling program to be provided by an appropriate agency, designated by the court.

363. If the parent or person legally responsible for the care of any minor who is found to be a person described in subdivision (d) of Section 300 receives public assistance or care, any portion of which is attributable to the minor, a copy of the order of the court providing for the removal of the minor from his home shall be furnished to the appropriate social services official, who shall reduce the public assistance and care furnished the parent or other person by the amount attributable to the minor.

364. In any case in which the court has ordered that a parent or guardian shall retain physical custody of a minor who is found to be a person described in subdivision (d) of Section 300, subject to supervision of the probation officer, whenever the probation officer subsequently receives a report of acts or circumstances which indicate that there is reasonable cause to believe that the minor is a person described in subdivision (d) of Section 300, he shall commence proceedings under this chapter. If, as a result of the proceedings required, the court finds that the minor is a person described in subdivision (d) of Section 300, the court shall remove such minor from the care, custody, and control of his parent or guardian and shall commit such minor to the care, custody, and control of those persons or organizations enumerated in Section 362.

365. The court may require the probation officer or any other agency to render such periodic reports concerning minors committed to its care, custody, and control under the provisions of subdivision (c) or (d) of Section 362 as the court may deem necessary or desirable, and the court may require that the probation officer, or may, with the consent of such other public agency, provide that any other public agency organized to provide care for needy or neglected children, shall perform such visitation and make such periodic reports to the courts concerning minors committed under such provisions as the court may deem necessary or desirable.

366. Every hearing in which an order is made adjudging a minor a dependent child of the juvenile court pursuant to Section 300 and

every subsequent hearing in which such an order is made, except a hearing at which the court orders the termination of its jurisdiction over such minor, shall be continued to a specific future date not more than one year after the date of such order. The continued hearing shall be placed on the appearance calendar and the probation officer shall make an investigation, file a supplemental report and make his recommendation for disposition. The court shall advise all persons present of the date of the future hearing and of their right to be present, to be represented by counsel and to show cause, if they have cause, why the jurisdiction of the court over the minor should be terminated. Notice of hearing shall be mailed by the probation officer to the same persons as in an original proceeding and to counsel of record by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons, not earlier than 30 days preceding the date to which the hearing was continued.

367. (a) Whenever a person has been adjudged a dependent child of the juvenile court and has been committed or otherwise disposed of as provided in this chapter for the care of dependent children of the juvenile court, the court may order that said dependent child be detained in the detention home, or otherwise as to the court seems fit until the execution of the order of commitment or of other disposition.

(b) In any case in which a minor is detained for more than 15 days pending the execution of the order of commitment or of any other disposition, the court shall periodically review the case to determine whether the delay is reasonable. Such periodic reviews shall be held at least every 15 days, commencing from the time the minor was initially detained pending the execution of the order of commitment or of any other disposition, and during the course of each review the court shall inquire regarding the action taken by the probation department to carry out its order, the reasons for the delay, and the effect of the delay upon the minor.

368. In a case where the residence of a dependent child of the juvenile court is out of the state and in another state or foreign country, or in a case where such minor is a resident of this state but his parents, relatives, guardian, or person charged with his custody is in another state, the court may order such minor sent to his parents, relatives, or guardian, or to the person charged with his custody, or, if the minor is a resident of a foreign country, to an official of a juvenile court of such foreign country or an agency of such country authorized to accept the minor, and in such case may order transportation and accommodation furnished, with or without an attendant, as the court deems necessary. If the court deems an attendant necessary, the court may order the probation officer or other suitable person to serve as such attendant. The probation officer shall authorize the necessary expenses of such minor and of the attendant and claims therefor shall be audited, allowed and paid in the same manner as other county claims.

369. (a) Whenever any person is taken into temporary custody under the provisions of Article 7 (commencing with Section 305) 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 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 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 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 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.

370. The juvenile court may, in any case before it in which a petition has been filed as provided in Article 7 (commencing with Section 305), order that the probation officer obtain the services of such psychiatrists, psychologists, or other clinical experts as may be required to assist in determining the appropriate treatment of the minor and as may be required in the conduct or implementation of such treatment. Payment for such services shall be a charge against the county.

SEC. 11. Article 11 (commencing with Section 375) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 11. Dependent Children—Transfer of Cases Between Counties

375. Whenever a petition is filed in the juvenile court of a county other than the residence of the person named in the petition, or whenever, subsequent to the filing of a petition in the juvenile court of the county where such minor resides, the residence of the person who would be legally entitled to the custody of such minor were it not for the existence of a court order issued pursuant to this chapter is changed to another county, the entire case may be transferred to the juvenile court of the county wherein such person then resides at any time after the court has made a finding of the facts upon which it has exercised its jurisdiction over such minor, and the juvenile court of the county wherein such person then resides shall take jurisdiction of the case upon the receipt and filing with it of such finding of the facts and an order transferring the case.

376. The expense of the transfer and all expenses in connection with the transfer and for the support and maintenance of such person shall be paid from the county treasury of the court ordering the transfer until the receipt and filing of the finding and order of

transfer in the juvenile court of the transferee county.

The judge shall inquire into the financial condition of such person and of the parent, parents, guardian, or other person charged with his support and maintenance, and if he finds such person, parent, parents, guardian, or other person able, in whole or in part, to pay the expense of such transfer, he shall make a further order requiring such person, parent, parents, guardian, or other person to repay to the county such part, or all, of such expense of transfer as, in the opinion of the court, is proper. Such repayment shall be made to the probation officer who shall keep suitable accounts of such expenses and repayments and shall deposit all such collections in the county treasury.

377. Whenever a case is transferred as provided in Section 375, the order of transfer shall recite each and all of the findings, orders, or modification of orders that have been made in the case, and shall include the name and address of the legal residence of the parent or guardian of the minor. All papers contained in the file shall be transferred to the county where such person resides. A copy of the order of transfer and of the findings of fact as required in Section 375 shall be kept in the file of the transferring county.

378. Whenever an order of transfer from another county is filed with the clerk of any juvenile court, the clerk shall place the transfer order on the calendar of the court, and it shall have precedence over all actions and civil proceedings not specifically given precedence by other provisions of law and shall be heard by the court at the earliest possible moment following the filing of the order.

379. In any action under the provisions of this article in which the residence of a minor person is determined, both the county in which the court is situated and any other county which, as a result of the determination of residence, might be determined to be the county of residence of the minor person, shall be considered to be parties in the action and shall have the right to appeal any order by which residence of the minor person is determined.

380. Any person adjudged to be a dependent child of the juvenile court may be permitted by order of the court to reside in a county other than the county of his legal residence, and the court shall retain jurisdiction over such person.

Whenever a dependent child of the juvenile court is permitted to reside in a county other than the county of his legal residence, he may be placed under the supervision of the probation officer of the county of actual residence, with the consent of such probation officer. The dependent child shall comply with the instructions of such probation officer and upon failure to do so shall be returned to the county of his legal residence for further hearing and order of the court.

SEC. 12. Article 12 (commencing with Section 385) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 12. Dependent Children—Modification of Juvenile Court Judgments and Orders

385. Any order made by the court in the case of any person subject to its jurisdiction may at any time be changed, modified, or set aside, as the judge deems meet and proper, subject to such procedural requirements as are imposed by this article.

386. No order changing, modifying, or setting aside a previous order of the juvenile court shall be made either in chambers, or otherwise, unless prior notice of the application therefor has been given by the judge or the clerk of the court to the probation officer and to the minor's counsel of record, or, if there is no counsel of record, to the minor and his parent or guardian.

387. An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative or friend and directing placement in a foster home, or commitment to a private institution or commitment to a county institution, shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the probation officer in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation of the minor.

(b) Upon the filing of such supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice thereof to be served upon the persons and in the manner prescribed by Sections 335 and 337.

(c) An order for the detention of the minor pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 7 (commencing with Section 305) of this chapter.

388. Any parent or other person having an interest in a child who is a dependent child of the juvenile court or the child himself through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child, shall state the petitioner's relationship to or interest in the child and shall set forth in concise language any change of circumstance or new evidence which are alleged to require such change of order or termination of jurisdiction.

If it appears that the best interests of the child may be promoted by the proposed change of order or termination of jurisdiction, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to such persons and by such means as prescribed by Section 386, and, in such instances as the means of giving notice is not prescribed by such sections, then by such means

as the court prescribes.

389. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a dependent child of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 307, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 307 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as petitioner alleges, in his petition, to have custody of such records. The court shall notify the district attorney of the county and the county probation officer, if he is not the petitioner of the petition, and such district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since such termination of jurisdiction or action pursuant to Section 307, as the case may be, he has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order sealed all records, papers, and exhibits in the person's case in the custody of the juvenile court, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in such case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, and each such agency and official shall seal records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it or he received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), such records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the

court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

390. A judge of the juvenile court in which a petition was filed, at any time before the minor reaches the age of 21 years, may dismiss the petition or may set aside the findings and dismiss the petition if the court finds that the interests of justice and the welfare of the minor require such dismissal, or if it finds that the minor is not in need of treatment or rehabilitation. The court shall have jurisdiction to order such dismissal or setting aside of the findings and dismissal regardless of whether the minor is, at the time of such order, a dependent child of the court.

SEC. 13. Article 13 (commencing with Section 395) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 13. Dependent Children—Appeals

395. A judgment or decree of a juvenile court or final order of a referee which becomes effective without approval of a judge of the juvenile court assuming jurisdiction and declaring any person to be a person described in Section 300, or on denying a motion made pursuant to Section 262, may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment; but no such order or judgment shall be stayed by such appeal, unless suitable provision is made for the maintenance, care, and custody of such person pending the appeal, and unless such provision is approved by an order of the juvenile court. Such appeal shall have precedence over all other cases in the court to which the appeal is taken.

An appellant unable to afford counsel shall be provided a free copy of the transcript.

SEC. 14. Article 1 (commencing with Section 500) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is repealed.

SEC. 15. Article 2 (commencing with Section 525) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is repealed.

SEC. 16. Article 2.5 (commencing with Section 540) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is repealed.

SEC. 17. Article 3 (commencing with Section 550) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is repealed.

SEC. 18. Article 4 (commencing with Section 575) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is repealed.

SEC. 19. The heading of Article 5 (commencing with Section

600) of Chapter 2 of Part 1, Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 14. Wards—Jurisdiction

SEC. 20. Section 600 of the Welfare and Institutions Code is repealed.

SEC. 21. Section 601.2 of the Welfare and Institutions Code is amended to read:

601.2. In the event that a parent or guardian or person in charge of a minor described in Section 601.1 fails to respond to directives of the school attendance review board or to services offered on behalf of the minor, the school attendance review board shall direct that the minor be referred to the probation department or to the county welfare department under Section 300, and the school attendance review board may require the school district to file a complaint against the parent, guardian, or other person in charge of such minor as provided in Section 12452 or Section 12756 of the Education Code.

SEC. 22. Section 607 of the Welfare and Institutions Code is amended to read:

607. The court may retain jurisdiction over any person who is found to be a ward of the juvenile court until such ward attains the age of 21 years.

SEC. 23. The heading of Article 6 (commencing with Section 625) of Chapter 2, Part 1, Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 15. Wards—Temporary Custody and Detention

SEC. 24. Section 625 of the Welfare and Institutions Code is amended to read:

625. A peace officer may, without a warrant, take into temporary custody a minor:

(a) Who is under the age of 18 years when such officer has reasonable cause for believing that such minor is a person described in Section 601 or 602, or

(b) Who is a ward of the juvenile court or concerning whom an order has been made under Section 636 or 702, when such officer has reasonable cause for believing that person has violated an order of the juvenile court or has escaped from any commitment ordered by the juvenile court, or

(c) Who is under the age of 18 years and who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

In any case where a minor is taken into temporary custody on the ground that there is reasonable cause for believing that such minor is a person described in Section 601 or 602, or that he has violated an order of the juvenile court or escaped from any commitment ordered by the juvenile court, the officer shall advise such minor that

anything he says can be used against him and shall advise him of his constitutional rights, including his right to remain silent, his right to have counsel present during any interrogation, and his right to have counsel appointed if he is unable to afford counsel.

SEC. 25. Section 625.5 of the Welfare and Institutions Code is repealed.

SEC. 26. Section 626 of the Welfare and Institutions Code is amended to read:

626. An officer who takes a minor into temporary custody under the provisions of Section 625 shall thereafter proceed as follows:

(a) He may release such minor; or

(b) He may prepare in duplicate a written notice to appear before the probation officer of the county in which such minor was taken into custody at a time and place specified in the notice. The notice shall also contain a concise statement of the reasons such minor was taken into custody. He shall deliver one copy of the notice to such minor or to a parent, guardian, or responsible relative of such minor and may require such minor or his parent, guardian, or relative, or both, to sign a written promise that either or both will appear at the time and place designated in the notice. Upon the execution of the promise to appear, he shall immediately release such minor. He shall, as soon as practicable, file one copy of the notice with the probation officer; or

(c) He may take such minor without unnecessary delay before the probation officer of the county in which such person was taken into custody, or in which such person resides, or in which the acts take place or the circumstances exist which are alleged to bring the minor within the provisions of Section 601 or 602, and deliver the custody of such minor to the probation officer.

In determining which disposition of the minor he will make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, provided such alternative is compatible with the best interests of the minor and the community.

SEC. 27. Section 628 of the Welfare and Institutions Code is amended to read:

628. Upon delivery to the probation officer of a minor who has been taken into temporary custody under the provisions of this article, the probation officer shall immediately investigate the circumstances of the minor and the facts surrounding his being taken into custody and shall immediately release such minor to the custody of his parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The minor is in need of proper and effective parental care or control and has no parent, guardian, or responsible relative; or has no parent, guardian, or responsible relative willing to exercise or capable of exercising such care or control; or has no parent, guardian, or responsible relative actually exercising such care or control.

(2) The minor is destitute or is not provided with the necessities of life or is not provided with a home or suitable place of abode.

(3) The minor is provided with a home which is an unfit place for him by reason of neglect, cruelty, depravity or physical abuse of either of his parents, or of his guardian or other person in whose custody or care he is.

(4) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another.

(5) The minor is likely to flee the jurisdiction of the court.

(6) The minor has violated an order of the juvenile court.

(7) The minor is physically dangerous to the public because of a mental or physical deficiency, disorder or abnormality.

SEC. 28. Section 630 of the Welfare and Institutions Code, as amended by Chapter 82 of the Statutes of 1975, is amended to read:

630. (a) If the probation officer determines that the minor shall be retained in custody, he shall immediately file a petition pursuant to Section 656 with the clerk of the juvenile court who shall set the matter for hearing on the detention hearing calendar. Immediately upon filing the petition with the clerk of the juvenile court, if the minor is alleged to be a person described in Section 601 or 602, the probation officer shall serve such minor with a copy of the petition and notify him of the time and place of the detention hearing. The probation officer shall thereupon notify each parent or each guardian of the minor of the time and place of such hearing if the whereabouts of each parent or guardian can be ascertained by due diligence. Such notice may be given orally.

(b) In such hearing the minor has a privilege against self-incrimination and has a right to confrontation by, and cross-examination of, any person examined by the court as provided in Section 635.

SEC. 29. Section 631 of the Welfare an Institutions Code is amended to read:

631. (a) Whenever a minor is taken into custody by a peace officer or probation officer, except when such minor willfully misrepresents himself as 18 or more years of age, such minor shall be released within 48 hours after having been taken into custody, excluding nonjudicial days, unless within said period of time a petition to declare him a ward has been filed pursuant to the provisions of this chapter or a criminal complaint against him has been filed in a court of competent jurisdiction.

(b) Whenever a minor who has been held in custody for more than six hours by the probation officer is subsequently released and no petition is filed, the probation officer shall prepare a written explanation of why the minor was held in custody for more than six hours. The written explanation shall be prepared within 72 hours after the minor is released from custody and filed in the record of the case. A copy of the written explanation shall be sent to the parents, guardian, or other person having care or custody of the minor.

SEC. 30. Section 634.5 of the Welfare and Institutions Code is repealed.

SEC. 31. The heading of Article 7 (commencing with Section 650) of Chapter 2, Part 1, Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 16. Wards—Commencement of Proceedings

SEC. 32. Section 650 of the Welfare and Institutions Code is amended to read:

650. A proceeding in the juvenile court to declare a minor a ward of the court is commenced by the filing with the court, by the probation officer, of a petition, in conformity with the requirements of this article.

SEC. 33. Section 650.5 of the Welfare and Institutions Code, as added by Chapter 1268 of the Statutes of 1975, is repealed.

SEC. 34. Section 651 of the Welfare and Institutions Code is amended to read:

651. Either the juvenile court in the county in which a minor resides or in the county where the minor is found or in the county in which the acts take place or the circumstances exist which are alleged to bring such minor within the provisions of Section 601 or 602, is the proper court to commence proceedings under this chapter.

SEC. 35. Section 652 of the Welfare and Institutions Code is amended to read:

652. Whenever the probation officer has cause to believe that there was or is within the county, or residing therein, a person within the provisions of Section 601 or 602, the probation officer shall immediately make such investigation as he deems necessary to determine whether proceedings in the juvenile court should be commenced.

SEC. 36. Section 653 of the Welfare and Institutions Code is amended to read:

653. Whenever any person applies to the probation officer to commence proceedings in the juvenile court, such application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 601 or 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make such investigation as he deems necessary to determine whether proceedings in the juvenile court should be commenced. If the probation officer does not take action under Section 654 and does not file a petition in the juvenile court within three weeks after such application, he shall endorse upon the affidavit of applicant his decision not to proceed further and his reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered by him under this section. The probation officer shall retain the affidavit and his indorsement thereon for a period of 30 days after such notice to applicant.

SEC. 37. Section 656 of the Welfare and Institutions Code is amended to read:

656. A petition to commence proceedings in the juvenile court to declare a minor a ward of the court shall be verified and must contain:

(a) The name of the court to which the same is addressed.

(b) The title of the proceeding.

(c) The code section or sections and subdivision or subdivisions under which the proceedings are instituted.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The name or names and residence address, if known to petitioner, of all parents and guardians of such minor. If there is no parent or guardian residing within the state, or if his place of residence is not known to petitioner, the petition must also contain the name and residence address, if known, of any adult relative residing within the county, or, if there be none, the adult relative residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he is detained in custody, the date and the precise time the minor was taken into custody.

SEC. 38. Section 658 of the Welfare and Institutions Code is amended to read:

658. Upon the filing of the petition, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he shall cause the same to be served upon the minor, if the minor is eight or more years of age, and upon each of the persons described in subdivision (e) of Section 656 whose residence addresses are set forth in said petition and thereafter before the hearing upon all such persons whose residence addresses become known to the clerk. The clerk shall issue a copy of the petition, to the minor's attorney and to the district attorney, if the district attorney has notified the clerk of the court that he wishes to receive such petition, containing the time, date, and place of the hearing.

SEC. 39. Section 660 of the Welfare and Institutions Code is amended to read:

660. (a) If the minor is detained the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive such notice and copy of the petition, either personally or by certified mail with request for return receipt, as soon as possible after filing of the petition and at least five days prior to the time set for hearing, unless such hearing is set less than five days from the filing of the petition, in which case, such notice and copy of the petition must be served at least 24 hours prior to the

time set for hearing.

(b) If the minor is not detained the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive such notice and copy of the petition, either personally, by certified mail with request for return receipt, or by first-class mail, at least 10 days prior to the time set for hearing. If such person is known to reside outside of the county, the clerk of the juvenile court shall mail the notice and copy of the petition, by certified mail with request for return receipt or by first-class mail, to such person, as soon as possible after filing of the petition and at least 10 days before the time set for hearing. Failure to respond to the notice by certified mail with request for return receipt or by first-class mail shall in no way result in arrest or detention. In the instance of failure to appear after notice by certified or first-class mail, the court shall direct that the notice and copy of the petition is to be personally served on all persons required to receive such notice and copy of the petition. Personal service of the notice and copy of the petition outside of the county at least 10 days before the time set for hearing is equivalent to such service by certified or first-class mail. Service may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service filed with the clerk of the court at or prior to the hearing.

(c) For purposes of this section, service on the minor's attorney shall constitute service on the minor's parent or guardian.

SEC. 40. Section 661 of the Welfare and Institutions Code, as amended by Chapter 1266 of the Statutes of 1975, 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 257, 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. 41. Section 663 of the Welfare and Institutions Code is amended to read:

663. Whenever a petition has been filed in the juvenile court alleging that a minor comes within the provisions of Section 601 or 602 of this code and praying for a hearing thereon, or whenever any subsequent petition has been filed praying for a hearing in the matter of said minor and it appears to the court that the conduct and behavior of the said minor may endanger the health, person, welfare, or property of himself or others, or that the circumstances of his home environment may endanger the health, person, welfare or

property of said minor, a warrant of arrest may be issued immediately for the minor.

SEC. 42. The heading of Article 8 (commencing with Section 675) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 17. Wards—Hearings

SEC. 43. Section 675 of the Welfare and Institutions Code is amended to read:

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

SEC. 44. Section 679 of the Welfare and Institutions Code is amended to read:

679. A minor who is the subject of a juvenile court hearing and any person entitled to notice of the hearing under the provisions of Section 658, is entitled to be present at such hearing. Any such minor and any such person has the right to be represented at such hearing by counsel of his own choice or, if unable to afford counsel, has the right to be represented by counsel appointed by the court.

SEC. 45. Section 681 of the Welfare and Institutions Code is amended to read:

681. In a juvenile court hearing, where the minor who is the subject of the hearing is represented by counsel, the district attorney shall, with the consent or at the request of the juvenile court judge, appear and participate in the hearing to assist in the ascertaining and presenting of the evidence. The terms and conditions of such representation shall be with the consent or approval of the judge of the juvenile court.

SEC. 46. Section 700 of the Welfare and Institutions Code is amended to read:

700. At the beginning of the hearing on a petition filed pursuant to Article 16 (commencing with Section 650) of this chapter, the judge or clerk shall first read the petition to those present and upon request of the minor upon whose behalf the petition has been brought or upon the request of any parent, relative or guardian, the judge shall explain any term of allegation contained therein and the nature of the hearing, its procedures, and possible consequences. The judge shall ascertain whether the minor and his parent or guardian or adult relative, as the case may be, has been informed of the right of the minor to be represented by counsel, and if not, the judge shall advise the minor and such person, if present, of the right to have counsel present and where applicable, of the right to appointed counsel. The court shall appoint counsel to represent the minor if he appears at the hearing without counsel, whether he is unable to

afford counsel or not, unless there is an intelligent waiver of the right of counsel by the minor; and, in the absence of such waiver, if the parent or guardian does not furnish counsel and the court determines that the parent or guardian has the ability to pay for counsel, the court shall appoint counsel at the expense of the parent or guardian. The court shall continue the hearing for not to exceed seven days, as necessary to make an appointment of counsel, or to enable counsel to acquaint himself with the case, or to determine whether the parent or guardian or adult relative is unable to afford counsel at his own expense, and shall continue the hearing as necessary to provide reasonable opportunity for the minor and the parent or guardian or adult relative to prepare for the hearing.

SEC. 47. Section 700.5 of the Welfare and Institutions Code is amended to read:

700.5. Except where a minor is in custody, any hearing on a petition filed pursuant to Article 16 (commencing with Section 650) of this chapter may be continued by the court for not more than 10 days in addition to any other continuance authorized in this chapter whenever the court is satisfied that an unavailable and necessary witness will be available within such time.

SEC. 48. Section 701 of the Welfare and Institutions Code is amended to read:

701. At the hearing, the court shall first consider only the question whether the minor is a person described by Section 601 or 602, and for this purpose, any matter or information relevant and material to the circumstances or acts which are alleged to bring him within the jurisdiction of the juvenile court is admissible and may be received in evidence; however, proof beyond a reasonable doubt supported by evidence, legally admissible in the trial of criminal cases, must be adduced to support a finding that the minor is a person described by Section 602, and a preponderance of evidence, legally admissible in the trial of civil cases must be adduced to support a finding that the minor is a person described by Section 601. When it appears that the minor has made an extrajudicial admission or confession and denies the same at the hearing, the court may continue the hearing for not to exceed seven days to enable the probation officer to subpoena witnesses to attend the hearing to prove the allegations of the petition. If the minor is not represented by counsel at the hearing, it shall be deemed that objections that could have been made to the evidence were made.

SEC. 49. Section 702 of the Welfare and Institutions Code is amended to read:

702. After hearing such evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 601 or 602. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly and shall

then proceed to hear evidence on the question of the proper disposition to be made of the minor. Prior to doing so, it may continue the hearing, if necessary, to receive the social study of the probation officer or to receive other evidence on its own motion or the motion of a parent or guardian for not to exceed 10 judicial days if the minor is detained during such continuance, and if the minor is not detained, it may continue the hearing to a date not later than 30 days after the date of filing of the petition. The court may, for good cause shown continue the hearing for an additional 15 days, if the minor is not detained. The court may make such order for detention of the minor or his release from detention, during the period of the continuance, as is appropriate.

SEC. 50. Section 706 of the Welfare and Institutions Code is amended to read:

706. After finding that a minor is a person described in Section 601 or 602, the court shall hear evidence on the question of the proper disposition to be made of the minor. The court shall receive in evidence the social study of the minor made by the probation officer and such other relevant and material evidence as may be offered, and in any judgment and order of disposition, shall state the social study made by the probation officer has been read and considered by the court.

SEC. 51. The heading of Article 9 (commencing with Section 725) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 18. Wards—Judgments and Orders

SEC. 52. Section 725 of the Welfare and Institutions Code is amended to read:

725. After receiving and considering the evidence on the proper disposition of the case, the court may enter judgment as follows:

(a) If the court has found that the minor is a person described by Section 601 or 602, it may, without adjudging such minor a ward of the court, place, the minor on probation, under the supervision of the probation officer, for a period not to exceed six months.

(b) If the court has found that the minor is a person described by Section 601 or 602, it may order and adjudge the minor to be a ward of the court.

SEC. 53. Section 726 of the Welfare and Institutions Code is amended to read:

726. In all cases wherein a minor is adjudged a ward of the court, the court may limit the control to be exercised over such ward by any parent or guardian and shall by its order clearly and specifically set forth all such limitations, but no ward shall be taken from the physical custody of a parent or guardian unless upon the hearing the court finds one of the following facts:

(a) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and

education for the minor.

(b) That the minor has been tried on probation in such custody and has failed to reform.

(c) That the welfare of the minor requires that his custody be taken from his parent or guardian.

SEC. 54. Section 727 of the Welfare and Institutions Code, as amended by Chapter 1266 of the Statutes of 1975, is amended to read:

727. 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. 55. Section 727.5 of the Welfare and Institutions Code is repealed.

SEC. 56. Section 727.6 of the Welfare and Institutions Code is repealed.

SEC. 57. Section 728 of the Welfare and Institutions Code is repealed.

SEC. 58. Section 729 of the Welfare and Institutions Code is repealed.

SEC. 59. Section 730 of the Welfare and Institutions Code is amended to read:

730. When a minor is adjudged a ward of the court on the ground that he is a person described by Section 601, the court may order any of the types of treatment referred to in Section 362 and as an additional alternative, may commit the minor to a juvenile home, ranch, camp or forestry camp. If there is no county juvenile home, ranch, camp or forestry camp within the county, the court may commit the minor to the county juvenile hall.

When such ward is placed under the supervision of the probation officer or committed to his care, custody and control, the court may make any and all reasonable orders for the conduct of such ward including the requirement that he go to work and earn money for the support of his dependents or to effect reparation and in either case that he keep an account of his earnings and report the same to the probation officer and apply such earnings as directed by the court. The court may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.

Such ward may be committed to the Youth Authority only upon a proceeding for the modification of an order of the court conducted pursuant to the provisions of Section 777.

SEC. 60. Section 731 of the Welfare and Institutions Code is amended to read:

731. When a minor is adjudged a ward of the court on the ground

that he is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 362 and 730, and as an additional alternative, may commit the minor to the Youth Authority.

SEC. 61. Section 737 of the Welfare and Institutions Code is amended to read:

737. (a) Whenever a person has been adjudged a ward of the juvenile court and has been committed or otherwise disposed of as provided in this chapter for the care of wards of the juvenile court, the court may order that said ward be detained in the detention home, or in the case of a ward of the age of 18 years or more, in the county jail or otherwise as to the court seems fit until the execution of the order of commitment or of other disposition.

(b) In any case in which a minor is detained for more than 15 days pending the execution of the order of commitment or of any other disposition, the court shall periodically review the case to determine whether the delay is reasonable. Such periodic reviews shall be held at least every 15 days, commencing from the time the minor was initially detained pending the execution of the order of commitment or of any other disposition, and during the course of each review the court shall inquire regarding the action taken by the probation department to carry out its order, the reasons for the delay, and the effect of the delay upon the minor.

SEC. 62. Section 738 of the Welfare and Institutions Code is amended to read:

738. In a case where the residence of a minor placed on probation under the provisions of Section 725 or of a ward of the juvenile court is out of the state and in another state or foreign country, or in a case where such minor is a resident of this state but his parents, relatives, guardian, or person charged with his custody is in another state, the court may order such minor sent to his parents, relatives, or guardian, or to the person charged with his custody, or, if the minor is a resident of a foreign country, to an official of a juvenile court of such foreign country or an agency of such country authorized to accept the minor, and in such case may order transportation and accommodation furnished, with or without an attendant, as the court deems necessary. If the court deems an attendant necessary, the court may order the probation officer or other suitable person to serve as such attendant. The probation officer shall authorize the necessary expenses of such minor and of the attendant and claims therefor shall be audited, allowed and paid in the same manner as other county claims.

SEC. 63. Section 739 of the Welfare and Institutions Code, as amended by Chapter 1129 of the Statutes of 1975, is amended to read:

739. (a) Whenever any person is taken into temporary custody under the provisions of Article 15 (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 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 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, 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 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. 64. Section 741 of the Welfare and Institutions Code is amended to read:

741. The juvenile court may, in any case before it in which a petition has been filed as provided in Article 16 (commencing with Section 650), order that the probation officer obtain the services of such psychiatrists, psychologists, or other clinical experts as may be required to assist in determining the appropriate treatment of the minor and as may be required in the conduct or implementation of such treatment. Payment for such services shall be a charge against the county.

SEC. 65. The heading of Article 10 (commencing with Section 750) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 19. Wards—Transfer of Cases Between Counties

SEC. 66. Section 755 of the Welfare and Institutions Code is amended to read:

755. Any person placed on probation by the juvenile court or adjudged to be a ward of the juvenile court may be permitted by order of the court to reside in a county other than the county of his legal residence, and the court shall retain jurisdiction over such person.

Whenever a ward of the juvenile court is permitted to reside in a county other than the county of his legal residence, he may be placed under the supervision of the probation officer of the county of actual residence, with the consent of such probation officer. The ward shall comply with the instructions of such probation officer and upon failure to do so shall be returned to the county of his legal residence for futher hearing and order of the court.

SEC. 67. The heading of Article 11 (commencing with Section 775) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 20. Wards—Modification of Juvenile Court Judgments and Orders

SEC. 68. Section 777 of the Welfare and Institutions Code is amended to read:

777. An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative or friend and directing placement in a foster home, or commitment to a private institution or commitment to a county institution, or an order changing or modifying a previous order by directing commitment to the Youth Authority shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the probation officer in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor.

(b) Upon the filing of such supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice thereof to be served upon the persons and in the manner prescribed by Sections 658 and 660.

(c) An order for the detention of the minor pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of this chapter.

SEC. 69. Section 778 of the Welfare and Institutions Code is amended to read:

778. Any parent or other person having an interest in a child who is a ward of the juvenile court or the child himself through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a ward of the juvenile court for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child, shall state the petitioner's relationship to or interest in the child and shall set forth in concise language any change of circumstance or new evidence which are alleged to require such change of order or termination of jurisdiction.

If it appears that the best interests of the child may be promoted by the proposed change of order or termination of jurisdiction, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to such persons and by such means as prescribed by Sections 776 and 779, and, in such instances as the means of giving notice is not prescribed by such sections, then by such means as the court prescribes.

SEC. 70. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as petitioner alleges, in his petition, to have custody of such records. The court shall notify the district attorney of the county and the county probation officer, if he is not the petitioner of the petition, and such district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since such termination of jurisdiction or action pursuant to Section 626, as the case may be, he has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order sealed all records, papers, and exhibits in the person's case in the custody of the juvenile court, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in such case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, and each such agency and official shall seal records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it or he received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), such records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the

action or proceeding becoming final, the court shall order the records sealed.

SEC. 71. The heading of Article 12 (commencing with Section 800) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 21. Wards—Appeals

SEC. 71.5. Section 800 of the Welfare and Institutions Code is amended to read:

800. A judgment or decree of a juvenile court or final order of a referee which becomes effective without approval of a judge of the juvenile court assuming jurisdiction and declaring any person to be a person described in Section 601 or 602, or on denying a motion made pursuant to Section 567, may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment; but no such order or judgment shall be stayed by such appeal, unless suitable provision is made for the maintenance, care, and custody of such person pending the appeal, and unless such provision is approved by an order of the juvenile court. Such appeal shall have precedence over all other cases in the court to which the appeal is taken.

An appellant unable to afford counsel shall be provided a free copy of the transcript.

SEC. 72. The heading of Article 13 (commencing with Section 825) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 22. Wards and Dependent Children—Records

SEC. 73. Section 828 of the Welfare and Institutions Code is amended to read:

828. Except as provided in Sections 389 and 781 of this code or 1203.45 of the Penal Code, any information gathered by a law enforcement agency relating to the taking of a minor into custody may be disclosed to another law enforcement agency, or to any person or agency which has a legitimate need for the information for purposes of official disposition of a case. When the disposition of a taking into custody is available, it must be included with any information disclosed.

SEC. 74. The heading of Article 14 (commencing with Section 850) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 23. Wards and Dependent Children—Juvenile Halls

SEC. 75. The heading of Article 15 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 24. Wards and Dependent Children—Juvenile Homes, Ranches and Camps

SEC. 76. The heading of Article 16 (commencing with Section 900) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 25. Support of Wards and Dependent Children

SEC. 77. Section 900 of the Welfare and Institutions Code is amended to read:

900. (a) If it is necessary that provision be made for the expense of support and maintenance of a ward or dependent child of the juvenile court or of a minor person concerning whom a petition has been filed in accordance with the provisions of this chapter, the order providing for the care and custody of such ward, dependent child or other minor person shall direct that the whole expense of support and maintenance of such ward, dependent child or other minor person, up to the amount of twenty dollars ($20) per month be paid from the county treasury and may direct that an amount up to any maximum amount per month established by the board of supervisors of the county be so paid. The board of supervisors of each county is hereby authorized to establish, either generally or for individual wards or dependent children or according to classes or groups of wards or dependent children, a maximum amount which the court may order the county to; pay for such support and maintenance. All orders made pursuant to the provisions of this section shall state the amounts to be so paid from the county treasury, and such amounts shall constitute legal charges against the county.

(b) This section is applicable to a minor who is the subject of a program of supervision undertaken by the probation department pursuant to Section 330 or 654 and who is temporarily placed out of his home by the probation department, with the approval of the court and the minor's parent or guardian, for a period not to exceed seven days.

SEC. 78. Section 914 of the Welfare and Institutions Code is amended to read:

914. As used in this article, "expense for support and maintenance" includes the reasonable value of any medical services furnished to the ward or dependent child at the county hospital or at any other county institution, or at any private hospital or by any private physician with the approval of the juvenile court of the county concerned, and the reasonable value of the support of the ward or dependent child at any juvenile hall established pursuant to the provisions of Article 23 (commencing with Section 850) of this chapter or the reasonable value of the ward's support at any forestry camp, juvenile home, ranch, or camp established within or without the county pursuant to the provisions of Article 24 (commencing with Section 880) of this chapter.

SEC. 79. The heading of Article 17 (commencing with Section 925) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 26. Work Furloughs

SEC. 80. The heading of Article 18 (commencing with Section 940) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code is amended and renumbered to read:

Article 27. 24-Hour Schools

SEC. 81. Any statutory reference to a person or minor adjudged or determined to be a dependent child of the juvenile court pursuant to Article 5 (commencing with Section 600) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, as that article existed prior to the effective date of this act, shall be deemed to be a reference to a person or minor adjudged or determined to be a dependent child of the juvenile court pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, as added by this act.

Any reference in any statute, whether enacted in 1976 at the Regular Session of the Legislature or prior thereto, to any section of the Welfare and Institutions Code which was by this act repealed and reenacted with a different number shall be deemed a reference to the successor section as reenacted by this act.

SEC. 82. It is the intent of the Legislature in enacting this act to completely separate the statutory references in Sections 600 through 800 of the Welfare and Institutions Code to, respectively, dependent children and wards of the juvenile court, by nonsubstantive amendments.

It is the intent of the Legislature that this act shall not make any substantive change in the Arnold-Kennick Juvenile Court Law.

SEC. 83. Section 208 of the Welfare and Institutions Code, as added by Section 1 of this act, is amended to read:

208. When any person under 18 years of age is detained in or sentenced to any institution in which adults are confined, it shall be unlawful to permit such person to come or remain in contact with such adults.

No person who is a ward or dependent child of the juvenile court who is detained in or committed to any state hospital or other state facility shall be permitted to come or remain in contact with any adult person who has been committed to any state hospital or other state facility as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6, or with any adult person who has been charged in an accusatory pleading with the commission of any sex offense for which registration of the convicted offender is required under Section 290 of the Penal Code and who has been committed

to any state hospital or other state facility pursuant to Section 1026 or 1370 of the Penal Code.

As used in this section, "contact" does not include participation in supervised group therapy or other supervised treatment activities or participation in hospital recreational activities which are directly supervised by employees of the hospital so long as living arrangements are strictly segregated and all precautions are taken to prevent unauthorized associations.

SEC. 84. It is the intent of the Legislature, if this bill and Assembly Bill No. 3361 are both chaptered and become effective on or before January 1, 1977, both bills effect Section 508 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 3361, that the changes affecting Section 508 of the Welfare and Institutions Code, proposed by both bills be given effect and incorporated into Section 208 of the Welfare and Institutions Code on the effective date of this act in the form set forth in Section 83 of this act. Therefore, Section 83 of this act shall become operative only if this bill and Assembly Bill No. 3361 are both chaptered and become effective on or before January 1, 1977, both bills affect Section 508, and this bill is chaptered after Assembly Bill No. 3361, in which case Section 208 of the Welfare and Institutions Code as amended by Section 83 of this act shall become operative on the effective date of this act and Section 208 of the Welfare and Institutions Code, as added by Section 1 of this act shall not become operative.

SEC. 85. Section 272.5 is added to the Welfare and Institutions Code, to read:

272.5. The probation officer or social worker of a demonstration county shall attempt to keep the minor and his parents or guardians together by providing appropriate services to the family. If the minor is removed from the physical custody of his parents or guardians, the probation officer or social worker shall provide appropriate services to the parents or guardians to facilitate the return of the minor.

SEC. 86. Section 302 is added to the Welfare and Institutions Code, to read:

302. (a) The juvenile court of a demonstration county shall adjudge a person to be a dependent child of the court if the child has been accepted for out-of-home placement pursuant to Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9 and has remained out of his parents' or guardians' physical custody for six months, or 12 months if the placement has been extended for six additional months pursuant to Section 16557.

(b) It shall be the duty of the county welfare department or probation department of a demonstration county to notify the juvenile court when a child has been in voluntary placement for six months, or 12 months if the placement has been extended pursuant to Section 16557, and to request the court to adjudge the minor a dependent child of the court.

SEC. 87. Section 303 is added to the Welfare and Institutions Code, to read:

303. (a) Each year the State Department of Health shall prepare and issue a report on foster care in California. The report shall be based on a sample of foster children drawn from counties which collectively include at least 65 percent of all the foster children in this state. The report shall include an analysis, evaluation or estimate, as appropriate, of the following, on a statewide basis:

(1) The number of foster children;

(2) The amount of funds expended by federal, state and local government for maintenance payments to foster parents, group homes and institutions;

(3) The amount of funds expended by federal, state and local government on services to foster children and their natural parents or guardians;

(4) The types of services being offered to parents and their children in order to keep the family together;

(5) The number of foster children who are of adoptable age, the number of such children adopted, and the number of foster children determined not to be adoptable and the reasons therefor;

(6) The number of foster children placed in permanent foster care or guardianship;

(7) The size of caseloads of probation officers and social workers, the effect such caseloads have on the services offered to parents or their children, and the effectiveness of such services;

(8) The movement of foster children within the program from placement to placement and the shifting responsibility for such children within the county probation department or welfare department;

(9) The foster care-related qualifications, education, and in-service training of social workers and probation officers who handle such cases;

(10) Any other matters relating to foster children which the department deems appropriate to be included in such report. The report shall be submitted to the Governor and Legislature no later than January of each year.

(b) All personal information and records obtained by the department pursuant to this section shall be confidential and may be disclosed only in those instances designated in Section 5328.

(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.

SEC. 88. Section 318.5 is added to the Welfare and Institutions Code, to read:

318.5. The minor and his parents or guardian shall have a right to representation by legal counsel at all stages of any proceedings under this chapter in a demonstration county in any case in which the minor is alleged to be a person described in Section 300 or 302, to be provided as follows:

(a) The court shall appoint counsel for the minor if he appears at any hearing without counsel, whether he is able to afford counsel or not. If the parent or guardian does not furnish counsel for the minor and the court determines that the parent or guardian has the ability to pay for counsel, the court shall appoint counsel for the minor at the expense of the parent or guardian.

(b) The court shall appoint counsel, who may be the public defender, for the parents or guardian when it appears to the court that the parents or guardian desire counsel but are unable to afford and cannot for that reason employ counsel.

(c) In a county where there is no public defender, or where there is a conflict of interest between two or more persons entitled to the appointment of the public defender as counsel in a proceeding, the court shall fix the compensation to be paid by the county for service of counsel other than the public defender.

(d) At the beginning of the first hearing in any proceeding under this chapter, in any case in which the minor is alleged to be a person described in Section 300 or 302, if either the minor or his parents or guardian appear without counsel, the judge shall advise the unrepresented party of his rights under this section and shall implement such rights before proceeding further, provided, that no waiver by a minor of any rights under this section shall be valid. Any counsel entering an appearance on behalf of any party shall continue to represent that person at all subsequent proceedings before the juvenile court unless relieved by the court either (1) upon the substitution of other counsel, or (2) upon a showing of good cause to relieve counsel without the substitution of other counsel.

SEC. 89. Section 319.5 is added to the Welfare and Institutions Code, to read:

319.5. In a demonstration county, in the case of a minor alleged to be a person described in Section 300, the court shall examine such minor, his parent, guardian, or other persons having relevant knowledge, and hear such relevant evidence as the minor, his parent or guardian or their counsel desires to present. The probation officer or social worker in a county welfare department designated pursuant to Section 272 shall report on the availability of services which would facilitate the return of the minor to the custody of his parents or guardians. The court shall make its order releasing such minor from custody unless it finds that: (a) there is a substantial danger to the physical health of the minor or the minor is suffering severe

emotional damage, and (b) there are no reasonable means by which the minor's physical or emotional health may be protected without removing the minor from his parents' or guardians' physical custody, in which case the court may order that such minor be placed in a children's shelter or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days. The court shall specify the factual grounds established to support these findings and enter such in the permanent records of the court.

SEC. 90. Section 328.5 is added to the Welfare and Institutions Code, to read:

328.5. Whenever the probation officer or social worker in a county welfare department of a demonstration county designated pursuant to Section 272 has cause to believe that there is within the county or residing therein, a person within the provisions of Section 300, the probation officer or social worker shall immediately make such investigation as he deems necessary to determine what services should be offered to the family and whether proceedings in the juvenile court should be commenced. If such services are deemed appropriate, the probation officer or social worker shall make a referral to state protective services for children pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9.

SEC. 91. Section 331.5 is added to the Welfare and Institutions Code, to read:

331.5. In any case in which a probation officer or social worker in a county welfare department of a demonstration county designated pursuant to Section 272, after investigation of an application for petition or other investigation he is authorized to make, concludes that a minor is within the jurisdiction of the juvenile court pursuant to Section 300 or probably will soon be within such jurisdiction, he may, in lieu of filing a petition or subsequent to the dismissal of a petition already filed, and with the consent of the minor's parent or guardian, undertake a program of supervision of the minor and his family. If such a program is undertaken, the probation officer or social worker shall attempt to ameliorate the situation which brings the minor within the jurisdiction of Section 300 by providing all appropriate services. Any time after the family has unreasonably refused to cooperate with the services being provided, the probation officer or social worker may file a petition to the court. In any event, if after six months the minor is believed to be within the jurisdiction of Section 300, the probation officer or social worker shall file a petition. Nothing in this section shall be construed to prevent the probation officer or social worker from filing a petition at any time within such six-month period.

SEC. 92. Section 361.5 is added to the Welfare and Institutions Code, to read:

361.5. (a) In a demonstration county, in all cases wherein a minor is adjudged a dependent child of the court, on the ground that he is a person described by Section 300 or 302, the court may limit the control to be exercised over such dependent by any parent or

guardian and shall by its order clearly and specifically set forth all such limitations, but such limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his parents or guardians unless upon the hearing the juvenile court of a demonstration county finds substantial evidence that:

(1) There is a substantial danger to the physical health of the minor and there are no reasonable means acceptable to the minor's parents or guardians by which the minor's physical health may be protected without removing the minor from his parents' or guardians' physical custody; or

(2) The parents or guardians of the minor are unwilling to have physical custody of the minor, there are no reasonable means acceptable to the parents or guardians which would enable the minor to be returned to their physical custody, and the parents or guardians have been notified that if the minor remains out of their physical custody for the period specified in Section 361.5, the minor may be declared permanently free from their custody and control under Section 2.5 of the act which enacted Section 726.5; or

(3) The minor is suffering severe emotional damage indicated by extreme anxiety, depression, or untoward aggressive behavior against others and there are no reasonable means acceptable to the minor's parents or guardians by which the minor's emotional health may be protected without removing the minor from his parents' or guardians' physical custody.

The court shall specify the factual grounds established to support these findings and enter such in the permanent records of the court.

(c) If the minor is taken from the physical custody of his parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of his parents or guardians in order to facilitate reunification of the family. If the probation officer or social worker in a county welfare department of a demonstration county designated pursuant to Section 272 cannot find a suitable placement within the county and seeks to place the minor outside the county, the probation officer or social worker shall serve written notice on the parents or guardians in the same manner as provided in Section 366 at least seven days prior to such placement. Such notice shall state the reasons which require such placement outside the county. The parents or guardians may object to such placement not later than seven days after receipt of such notice and, upon such objection, the court shall hold a hearing not later than five days after such objection and prior to such placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(d) The juvenile court of a demonstration county shall order that the probation officer or social worker in a county welfare department designated pursuant to Section 272 provide to the minor's parents or guardians services which can reasonably be expected to facilitate the return of the minor to his family.

SEC. 93. Section 366.5 is added to the Welfare and Institutions Code, to read:

366.5. (a) In order to provide minors described in this section with a stable and permanent environment, the juvenile court of a demonstration county shall follow the procedure set forth in subdivision (d).

(b) The juvenile court of a demonstration county shall commence proceedings under subdivision (d) in the case of a minor who has been taken from the physical custody of his parents or guardians under paragraph (1) or (3) of subdivision (b) of Section 361.5 and has remained out of their physical custody for 12 consecutive months and:

(1) The minor was less than two years of age at the time of removal pursuant to paragraph (1) or (3) of subdivision (b) of Section 361.5; or

(2) The minor is 14 years of age or older at the time of this proceeding and expresses a mature desire not to be returned to the physical custody of his parents or guardians.

Physical custody of the minor by his parents or guardians for insubstantial periods during the 12-month period will not serve to interrupt the running of such period.

(c) The juvenile court of a demonstration county shall commence proceedings under subdivision (d) in the case of any other minor who has been taken from the physical custody of his parents or guardians under paragraph (1), (2), or (3) of subdivision (b) of Section 361.5 and has remained out of their physical custody for 18 consecutive months, including for these purposes the time, if any, that the minor has remained out of their physical custody pursuant to a voluntary placement under Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9.

Physical custody of the minor by the parents or guardians for insubstantial periods of time during the 18-month period will not serve to interrupt the running of such period.

(d) For any minor that the juvenile court of a demonstration county finds to be a person described in either subdivision (b) or (c), the court shall order the appropriate department to investigate how the minor might be provided with a stable and permanent environment as required by subdivision (e). The department shall report its findings and make a recommendation to the court at a hearing that shall take place no more than 45 days from the date of the court's findings under subdivision (b) or (c), unless when the court makes its findings under subdivision (b) or (c), it finds that there is a substantial probability the minor will be returned to the physical custody of his parents or guardians within six months, in which case the hearing shall take place not more than six months from the date of the court's findings. The department and court shall give due consideration to the foster parents, if any, of the minor in considering adoption, guardianship or stable long-term foster care placement. The court shall notify the minor's parents or guardians

42172 28 11 220 832

and foster parents of its order under this subdivision, and the date of the hearing under subdivision (e). Such notice shall be sent by registered mail no less than 15 days before the date of such hearing and shall include a copy of the findings of the investigating department.

(e) At the hearing ordered under subdivision (d):

(1) If the court finds that the minor is adoptable, the court shall order the county counsel, or if there is no county counsel, the district attorney, to initiate an action to declare the minor permanently free from the custody and control of his parents or guardians pursuant to Section 2.5 of the act which enacted this Section 729.5 unless the court finds that:

(A) The parents or guardians have maintained a close family relationship with the minor through regular visitation and contact and the minor would benefit from a continued relationship with them; or

(B) A minor 14 years of age or older objects to termination of parental rights; or

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of the foster parents would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to them.

(2) If the court finds that the minor is not adoptable or the exceptions described in paragraph (1) of subdivision (e) apply, and the court finds that one or more adults are available and eligible to become legal guardians for the minor, the court shall order the department to facilitate the guardianship proceedings. The county counsel or, if there is no county counsel, the district attorney, may render assistance in such proceedings to the department. The court shall not make such an order if it finds that the minor's foster parents are unable to become guardians for the minor because of exceptional circumstances, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his foster parents would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to them.

The proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court, notwithstanding Section 1405 of the Probate Code. For such minors, the juvenile court shall have the power to appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(3) If the court finds that the minor is not adoptable under paragraph (1) of subdivision (e) and that guardianship proceedings should not be initiated under paragraph (2) of subdivision (e), it shall order the department to facilitate the placement of the minor in an environment that can reasonably be expected to be stable and

permanent. When the minor is in a foster home, and the foster parents are willing to provide and capable of providing a stable and permanent environment, the minor shall not be removed from this home if removal of the minor from the physical custody of his foster parents would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to them.

(f) When an adoption or guardianship of the minor has been perfected, the court shall terminate its jurisdiction over such minor. If some other long-term placement for the minor has been made, the court shall continue the hearing to a specific future date not more than one year after the date of the order of continued jurisdiction over the minor as a dependent child pursuant to Section 300 or 302, notwithstanding the six-month review hearing required pursuant to Section 18 of the act which enacted this section.

SEC. 94. It is the intent of the Legislature, if this bill and Senate Bill No. 30 are both chaptered and become effective January 1, 1977, Senate Bill No. 30 adds and repeals Section 600.5 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 30, that Section 600.5 be given effect in the form set forth in Section 87 of this act and be repealed on June 30, 1981. Therefore, if this bill and Senate Bill No. 30 are both chaptered and become effective January 1, 1977, Senate Bill No. 30 adds and repeals Section 600.5 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 30, Section 87 of this act shall become effective on the effective date of this bill and shall remain in effect only until June 30, 1981, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1981, deletes or extends such date, and Section 5 of Senate Bill No. 30 shall not become operative.

SEC. 95. It is the intent of the Legislature, if this bill and Senate Bill No. 30 are both chaptered and become effective January 1, 1977, Senate Bill No. 30 adds and repeals Sections 576.8, 600.3, 634.7, 635.5, 652.5, 654.5, 726.5, and 729.5, of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 30, that Sections 576.8, 600.3, 634.7, 635.5, 652.5, 654.5, 726.5, and 729.5, of the Welfare and Institutions Code, as added and repealed by Senate Bill No. 30, be given effect in the forms set forth in Sections 85, 86, 88, 89, 90, 91, 92, and 93, respectively, of this act, become operative on July 1, 1977, and be repealed on June 30, 1981. Therefore, if this bill and Senate Bill No. 30 are both chaptered and become effective January 1, 1977, Senate Bill No. 30 adds and repeals Sections 576.8, 600.3, 634.7, 635.5, 652.5, 654.5, 726.5, and 729.5, of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 30, Sections 85, 86, 88, 89, 90, 91, 92, and 93 of this act shall become operative on July 1, 1977, and shall remain in effect only until June 30, 1981, and as of that date are repealed, unless a later enacted statute, which is chaptered before June 30, 1981, deletes or extends such date and Sections 3.5, 4, 5.7, 7, 10, 12, 16, and 19 of Senate Bill No. 30 shall not become operative.

CHAPTER 1069

An act to amend Sections 707.2 and 707.4 of, and to repeal Section 707.3 of, the Welfare and Institutions Code, relating to juvenile offenders.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 707.2 of the Welfare and Institutions Code is amended to read:

707.2. Prior to sentence, the court of criminal jurisdiction may remand the minor to the custody of the California Youth Authority for not to exceed 90 days for the purpose of evaluation and report concerning his amenability to training and treatment offered by the Youth Authority. 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 shall be sentenced to the state prison unless he has first been remanded to the custody of the California Youth Authority for evaluation and report pursuant to this section and the court finds after having read and considered the report submitted by the Youth Authority that the minor is not a suitable subject for commitment to the Youth Authority.

SEC. 2. Section 707.3 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 707.4 of the Welfare and Institutions Code is amended to read:

707.4. In any case arising under this article in which there is no conviction in the criminal court, 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.

CHAPTER 1070

An act to amend Section 17 of the Penal Code, and to amend Sections 635, 636, and 727 of, and to add Sections 362 and 742 to, the Welfare and Institutions Code, relating to youthful offenders and juveniles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 17 of the Penal Code is amended to read:

17. (a) A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

(b) When a crime is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

(1) After a judgment imposing a punishment other than imprisonment in the state prison.

(2) When the court, upon committing the defendant to the Youth Authority, designates the offense to be a misdemeanor.

(3) When the court grants probation to a defendant without imposition of sentence and at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor.

(4) When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of his arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.

(5) When, at or before the preliminary examination or prior to filing an order pursuant to Section 872, the magistrate determines that the offense is a misdemeanor, in which event the case shall proceed as if the defendant had been arraigned on a misdemeanor complaint.

(c) When a defendant is committed to the Youth Authority for a crime punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, the offense shall, upon the discharge of the defendant from the Youth Authority, thereafter be deemed a misdemeanor for all purposes.

SEC. 1.5. Section 635 of the Welfare and Institutions Code is amended to read:

635. The court will examine such minor, his parent, guardian, or

other person having relevant knowledge, hear such relevant evidence as the minor, his parent or guardian or their counsel desires to present, and, unless it appears that such minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or the person or property of another that he be detained or that such minor is likely to flee to avoid the jurisdiction of the court, the court shall make its order releasing such minor from custody. The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another that the minor be detained.

SEC. 2. Section 636 of the Welfare and Institutions Code is amended to read:

636. If it appears upon the hearing that such minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or the person or property of another that he be detained or that such minor is likely to flee to avoid the jurisdiction of the court, the court may make its order that such minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter said order together with its findings of fact in support thereof in the records of the court. The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another that the minor be detained.

SEC. 2.5. Section 636 of the Welfare and Institutions Code is amended to read:

636. If it appears upon the hearing that such minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or reasonable necessity for the protection of the person or property of another that he be detained or that such minor is likely to flee to avoid the jurisdiction of the court, the court may make its order that such minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter said order together with its findings of fact in support thereof in the records of the court. The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or reasonable necessity for the protection of the person or property of another that the minor be detained.

If the court finds that the criteria of Section 628.1 are applicable, the court may, and after the operative date of that section the court

shall, place the minor on home supervision for a period not to exceed 15 judicial days, and shall enter such order together with its findings of fact in support thereof in the records of the court. If the court releases the minor on home supervision, the court may continue, modify, or augment any conditions of release previously imposed by the probation officer, or may impose new conditions on a minor released for the first time. If there are new or modified conditions, the minor shall be required to sign a written promise to obey such conditions pursuant to Section 628.1.

SEC. 3. Section 727 of the Welfare and Institutions Code is amended to read:

727. (1) 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.

(2) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivision (1).

SEC. 3.3. Section 727 of the Welfare and Institutions Code is amended to read:

727. (1) 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.

(2) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivision (1).

SEC. 3.7. Section 362 is added to the Welfare and Institutions Code, to read:

362. (1) When a minor is adjudged a dependent child of the court on the ground that he is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such minor, including medical treatment, subject to further order of the court.

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 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the 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 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian shall be required to participate in a counseling program to be provided by an appropriate agency, designated by the court.

(2) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivision (1).

SEC. 4. Section 742 is added to the Welfare and Institutions Code, to read:

742. Upon the request of an alleged victim of a crime, the probation officer shall, within 60 days of the final disposition of a case within which a petition has been filed pursuant to Section 602, inform such person by letter of the final disposition of the case. "Final disposition" means dismissal, acquittal, or findings made pursuant to Section 731.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 3121 are both chaptered and become effective on or before January 1, 1977, both bills amend Section 636 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 3121, that Section 636 of the Welfare and Institutions Code, as amended by Section 2 of this act shall remain operative only until the effective date of Assembly Bill No. 3121, and than on the effective date of Assembly Bill No. 3121 Section 636 of the Welfare and Institutions Code as amended by Section 2 of this act be further amended in the form set forth in Section 2.5 of this act to incorporate the changes in Section 636 proposed by Assembly Bill No. 3121. Therefore, Section 2.5 of this act shall become operative only if this bill and Assembly Bill No. 3121 are both chaptered and become effective on or before January 1, 1977, both bills amend Section 636, and this bill is chaptered after Assembly Bill No. 3121, in which case Section 2.5 of this act shall become operative on the effective date of Assembly Bill No. 3121.

SEC. 6. It is the intent of the Legislature, if this bill and Senate Bill No. 2172 are both chaptered and become effective on or before January 1, 1977, both bills amend Section 727 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 2172, that Section 727 of the Welfare and Institutions Code, as amended by Section 3 of this act shall remain operative only until the effective date of Senate Bill No. 2172, and that on the effective date of Senate

Bill No. 2172 Section 727 of the Welfare and Institutions Code as amended by Section 3 of this act be further amended in the forms set forth, respectively, in Sections 3.3 and 3.7 of this act to incorporate the changes in Section 727 proposed by Senate Bill No. 2172. Therefore, Sections 3.3 and 3.7 of this act shall become operative only if this bill and Senate Bill No. 2172 are both chaptered and become effective on or before January 1, 1977, both bills amend Section 727, and this bill is chaptered after Senate Bill No. 2172, in which case Sections 3.3 and 3.7 of this act shall become operative on the effective date of Senate Bill No. 2172 and Section 362 of the Welfare and Institutions Code, as proposed by Section 1.5 of Senate Bill No. 2172, shall not become operative.

SEC. 7. The amendments to Section 17 of the Penal Code made by Section 1 of this act relating to commitments to the Youth Authority are applicable to all persons who may be or presently are under the jurisdiction of the Youth Authority as a result of a commitment from a court pursuant to Section 1731.5 of the Welfare and Institutions Code.

SEC. 8. If any provision of the amendments to Section 17 of the Penal Code made by Section 1 of this act, relating to commitments to the Youth Authority, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of Section 17 of the Penal Code which can be given effect without the invalid provision or application, and to this end the provisions of Section 17 of the Penal Code are severable.

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 because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that imminent mass releases of wards of the Youth Authority as a result of a recent court ruling may be avoided, it is necessary that this act take effect immediately.

CHAPTER 1071

An act to amend Section 170.6 of the Code of Civil Procedure, to amend Sections 502, 507, 553, 601, 602, 607, 628, 635, 636, 650, 654, 655, 701, 702, 707, 726, 727, 730, 731, 881, 1737.1, and 1769 of, to add Sections 553.2, 628.1, 636.2, 656.1, and 681 to, to add Article 13.1 (commencing with Section 840) to Chapter 2 of Part 1 of Division 2 of, and to repeal Sections 681, 707.2, and 707.3 of, the Welfare and Institutions Code,

03121 28 11 385 865

relating to juvenile court law.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 170.6 of the Code of Civil Procedure is amended to read:

170.6. (1) No judge, court commissioner, or referee of any superior, municipal or justice court of the State of California shall try any civil or criminal action or special proceeding of any kind or character nor hear any matter therein which involves a contested issue of law or fact when it shall be established as hereinafter provided that such judge or court commissioner is prejudiced against any party or attorney or the interest of any party or attorney appearing in such action or proceeding.

(2) Any party to or any attorney appearing in any such action or proceeding may establish such prejudice by an oral or written motion without notice supported by affidavit or declaration under penalty of perjury or an oral statement under oath that the judge, court commissioner, or referee before whom such action or proceeding is pending or to whom it is assigned is prejudiced against any such party or attorney or the interest of such party or attorney so that such party or attorney cannot or believes that he cannot have a fair and impartial trial or hearing before such judge, court commissioner, or referee. Where the judge, court commissioner, or referee assigned to or who is scheduled to try the cause or hear the matter is known at least 10 days before the date set for trial or hearing, the motion shall be made at least five days before that date. If directed to the trial of a cause where there is a master calendar, the motion shall be made to the judge supervising the master calendar not later than the time the cause is assigned for trial. In no event shall any judge, court commissioner, or referee entertain such motion if it be made after the drawing of the name of the first juror, or if there be no jury, after the making of an opening statement by counsel for plaintiff, or if there be no such statement, then after swearing in the first witness or the giving of any evidence or after trial of the cause has otherwise commenced. If the motion is directed to a hearing (other than the trial of a cause), the motion must be made not later than the commencement of the hearing. In the case of trials or hearings not herein specifically provided for, the procedure herein specified shall be followed as nearly as may be. The fact that a judge, court commissioner, or referee has presided at or acted in connection with a pretrial conference or other hearing, proceeding or motion prior to trial and not involving a determination of contested fact issues relating to the merits shall not preclude the later making of the motion provided for herein at the time and in the manner hereinbefore provided.

03121 28 11 405 869

(3) If such motion is duly presented and such affidavit or declaration under penalty of perjury is duly filed or such oral statement under oath is duly made, thereupon and without any further act or proof, the judge supervising the master calendar, if any, shall assign some other judge, court commissioner, or referee to try the cause or hear the matter. In other cases, the trial of the cause or the hearing of the matter shall be assigned or transferred to another judge, court commissioner, or referee of the court in which the trial or matter is pending or, if there is no other judge, court commissioner, or referee of the court in which the trial or matter is pending, the Chairman of the Judicial Council shall assign some other judge, court commissioner, or referee to try such cause or hear such matter as promptly as possible. Under no circumstances shall a party or attorney be permitted to make more than one such motion in any one action or special proceeding pursuant to this section; and in actions or special proceedings where there may be more than one plaintiff or similar party or more than one defendant or similar party appearing in the action or special proceeding, only one motion for each side may be made in any one action or special proceeding.

(4) Unless required for the convenience of the court or unless good cause is shown, a continuance of the trial or hearing shall not be granted by reason of the making of a motion under this section. If a continuance is granted, the cause or matter shall be continued from day to day or for other limited periods upon the trial or other calendar and shall be reassigned or transferred for trial or hearing as promptly as possible.

(5) Any affidavit filed pursuant to this section shall be in substantially the following form:

(Here set forth court and cause)

State of California, }
County of } ss.

_____, being duly sworn, deposes and says: That he is a party (or attorney for a party) to the within action (or special proceeding). That _____ the judge, court commissioner, or referee before whom the trial of the (or a hearing in the) aforesaid action (or special proceeding) is pending (or to whom it is assigned), is prejudiced against the party (or his attorney) or the interest of the party (or his attorney) so that affiant cannot or believes that he cannot have a fair and impartial trial or hearing before such judge, court commissioner, or referee.

_____

Subscribed and sworn to before me this
_____ day of _____, 19____.
(Clerk or notary public or other officer administering oath)

03121 28 11 425 873

(6) Any oral statement under oath or declaration under penalty of perjury made pursuant to this section shall include substantially the same contents as the affidavit above.

(7) Nothing in this section shall affect or limit the provisions of Section 170 and Title 4, Part 2, of this code and this section shall be construed as cumulative thereto.

(8) If any provision of this section or the application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are declared to be severable.

SEC. 4. Section 502 of the Welfare and Institutions Code is amended to read:

502. (a) The purpose of this chapter is to secure for each minor under the jurisdiction of the juvenile court such care and guidance, preferably in his own home, as will serve the spiritual, emotional, mental, and physical welfare of the minor and the best interests of the state; to protect the public from criminal conduct by minors; to impose on the minor a sense of responsibility for his own acts; to preserve and strengthen the minor's family ties whenever possible, removing him from the custody of his parents only when necessary for his welfare or for the safety and protection of the public; and, when the minor is removed from his own family, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents. This chapter shall be liberally construed to carry out these purposes.

(b) The purpose of this chapter also includes the protection of the public from the consequences of criminal activity, and to such purpose probation officers, peace officers, prosecuting attorneys, and juvenile courts shall take into account such protection of the public in their determinations under this chapter.

SEC. 7. Section 507 of the Welfare and Institutions Code is amended to read:

507. (a) No court, judge, referee, or peace officer shall knowingly detain in any jail or lockup any person under the age of 18 years, unless a judge of the juvenile court shall determine that there are no other proper and adequate facilities for the care and detention of such person, or unless such person has been transferred by the juvenile court to another court for proceedings not under the juvenile court law and has been charged with or convicted of a felony. If any person under the age of 18 years is transferred by the juvenile court to another court and is charged with or convicted of a felony as herein provided and is not released pending hearing, such person may be committed to the care and custody of a sheriff, constable, or other peace officer who shall keep such person in the juvenile hall or in such other suitable place as such latter court may direct, provided that no such person shall be detained in or committed to any hospital except for medical or other remedial care and treatment or observation.

03121 2811475 883

(b) Notwithstanding the provisions of subdivision (a), no minor shall be detained in any jail, lockup, juvenile hall, or other secure facility who is taken into custody solely upon the ground that he is a person described by Section 601 or adjudged to be such or made a ward of the juvenile court solely upon that ground. If any such minor is detained, he shall be detained in a sheltered-care facility or crisis resolution home as provided for in Section 654, or in a nonsecure facility provided for in subdivision (a), (b), (c), or (d) of Section 727.

SEC. 9. Section 553 of the Welfare and Institutions Code is amended to read:

553. The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court or the senior judge if there is no presiding judge, may appoint one or more referees to serve on a full-time or part-time basis. A referee shall serve at the pleasure of the appointing judge, and unless the appointing judge makes his order terminating the appointment of a referee, such referee shall continue to serve as such until the appointment of his successor. Except as otherwise provided by law, the amount and rate of compensation to be paid referees shall be fixed by the board of supervisors. Every referee first appointed on or after January 1, 1977 shall have been admitted to practice law in this state and, in addition, shall have been admitted to practice law in this state for a period of not less than five years or in any other state and this state for a combined period of not less than 10 years. Nothing in this section shall be construed to apply to the qualifications of any referee first appointed prior to January 1, 1977.

SEC. 10. Section 553.2 is added to the Welfare and Institutions Code, to read:

553.2. The provisions of Sections 170 and 170.6 of the Code of Civil Procedure shall apply to a referee, provided, that the presiding judge of the juvenile court shall if the motion is granted reassign the matter to another referee or to a judge of the juvenile court.

SEC. 11. 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, or who is under the age of 18 years when he violated any ordinance of any city or county of this state establishing a curfew based solely on age 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

03121 2811505 889

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. 12. Section 602 of the Welfare and Institutions Code is amended to read:

602. Any person who is under the age of 18 years when he violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court.

SEC. 13. Section 607 of the Welfare and Institutions Code is amended to read:

607. (a) The court may retain jurisdiction over any person who is found to be a ward or dependent child of the juvenile court until such ward or dependent child attains the age of 21 years, except as provided in subdivision (b).

(b) The court may retain jurisdiction over any person who is found to be a person described in Section 602 of this code by reason of the violation, when he was 16 years of age or older, of any of the offenses listed in subdivision (b) of Section 707 until such person attains the age of 23 years if the person was committed to the Youth Authority.

SEC. 15. Section 628 of the Welfare and Institutions Code is amended to read:

628. (a) Upon delivery to the probation officer of a minor who has been taken into temporary custody under the provisions of this article, the probation officer shall immediately investigate the circumstances of the minor and the facts surrounding his being taken into custody and shall immediately release such minor to the custody of his parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The minor is in need of proper and effective parental care or control and has no parent, guardian, or responsible relative; or has no parent, guardian, or responsible relative willing to exercise or capable of exercising such care or control; or has no parent, guardian, or responsible relative actually exercising such care or control.

(2) The minor is destitute or is not provided with the necessities of life or is not provided with a home or suitable place of abode.

(3) The minor is provided with a home which is an unfit place for him by reason of neglect, cruelty, depravity or physical abuse of either of his parents, or of his guardian or other person in whose custody or care he is.

(4) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or reasonable necessity for the protection of the person or property of another.

(5) The minor is likely to flee the jurisdiction of the court.

(6) The minor has violated an order of the juvenile court.

(7) The minor is physically dangerous to the public because of a mental or physical deficiency, disorder or abnormality.

(b) In any case in which there is reasonable cause for believing that a minor who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in subdivision (d) of Section 600, the minor shall be deemed to have been taken into temporary custody and delivered to the probation officer for the purposes of this chapter while he is at the office of the physician or surgeon or such medical facility.

SEC. 16. Section 628.1 is added to the Welfare and Institutions Code, to read:

628.1. If the minor meets one or more of the criteria for detention under Section 628, but the probation officer believes that 24-hour secure detention is not necessary in order to protect the minor or the person or property of another, or to ensure that the minor does not flee the jurisdiction of the court, the probation officer shall proceed according to this section.

Unless one of the conditions described in paragraph (1), (2), or (3) of subdivision (a) of Section 628 exists, the probation officer shall release such minor to his parent, guardian, or responsible relative on home supervision. As a condition for such release, the probation officer shall require the minor to sign a written promise that he understands and will observe the specific conditions of home supervision release. Such conditions may include curfew and school attendance requirements related to the protection of the minor or the person or property of another, or to the minor's appearances at court hearings. A minor who violates a specific condition of home supervision release which he has promised in writing to obey may be taken into custody and placed in secure detention, subject to court review at a detention hearing.

A minor on home supervision shall be entitled to the same legal protections as a minor in secure detention, including a detention hearing.

SEC. 16.5. Section 635 of the Welfare and Institutions Code is amended to read:

635. The court will examine such minor, his parent, guardian, or other person having relevant knowledge, hear such relevant evidence as the minor, his parent or guardian or their counsel desires to present, and, unless it appears that such minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or reasonably necessary for the protection of the person or property of another that he be detained or that such minor is likely to flee the jurisdiction of the court, the court shall make its order releasing such minor from custody.

SEC. 17. Section 636 of the Welfare and Institutions Code is

amended to read:

636. If it appears upon the hearing that such minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or reasonable necessity for the protection of the person or property of another that he be detained or that such minor is likely to flee the jurisdiction of the court, the court may make its order that such minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter said order together with its findings of fact in support thereof in the records of the court.

If the court finds that the criteria of Section 628.1 are applicable, the court shall place the minor on home supervision for a period not to exceed 15 judicial days, and shall enter such order together with its findings of fact in support thereof in the records of the court. If the court releases the minor on home supervision, the court may continue, modify, or augment any conditions of release previously imposed by the probation officer, or may impose new conditions on a minor released for the first time. If there are new or modified conditions, the minor shall be required to sign a written promise to obey such conditions pursuant to Section 628.1.

SEC. 19. Section 636.2 is added to the Welfare and Institutions Code, to read:

636.2. The probation officer may operate and maintain nonsecure detention facilities, or may contract with private agencies offering such services, for those minors who are not considered escape risks and are not considered a danger to themselves or to the person or property of another. Criteria to be considered for detention in such facilities shall include, but not be limited to: (a) the nature of the offense, (b) the minor's previous record including escapes from secure detention facilities, (c) lack of criminal sophistication, and (d) the age of the minor. A minor detained in such facilities who leaves the same without permission may be housed in a secure facility following his apprehension, pending a detention hearing pursuant to Section 632.

SEC. 20. Section 650 of the Welfare and Institutions Code is amended to read:

650. (a) A proceeding in the juvenile court to declare a minor a dependent child of the court or a ward of the court under Section 601 is commenced by the filing with the court, by the probation officer, of a petition, in conformity with the requirements of this article.

(b) A proceeding in the juvenile court to declare a minor a ward under Section 602 of the court is commenced by the filing with the court, by the prosecuting attorney as petitioner, of a petition, in conformity with the requirements of this article.

SEC. 21. Section 653 of the Welfare and Institutions Code is amended to read:

653. Whenever any person applies to the probation officer to commence proceedings in the juvenile court, such application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 600, 601, or 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make such investigation as he deems necessary to determine whether proceedings in the juvenile court should be commenced. If the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person described in Section 602 to be a ward of the juvenile court, the probation officer shall cause the affidavit to be taken to the prosecuting attorney. The prosecuting attorney shall within his discretionary power institute proceedings in accordance with his role as public prosecutor pursuant to subdivision (b) of Section 650 of this code and Section 26500 of the Government Code.

If the probation officer does not take action under Section 654 and does not file a petition in juvenile court within 21 court days after such application, or in the case of an affidavit alleging that a minor committed an offense described in Section 602 or alleging that a minor is within Section 602, does not cause the affidavit to be taken to the prosecuting attorney within 21 court days after such application, he shall endorse upon the affidavit of applicant his decision not to proceed further and his reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered by him under this section. The probation officer shall retain the affidavit and his indorsement thereon for a period of 30 days after such notice to applicant.

SEC. 22. Section 654 of the Welfare and Institutions Code is amended to read:

654. In any case in which a probation officer, after investigation of an application for petition or other investigation he is authorized to make, concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within such jurisdiction, he may, in lieu of filing a petition to declare a minor a dependent child of the court or a minor or a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under Section 602 or subsequent to dismissal of a petition already filed, and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to exceed six months, and attempt thereby to adjust the situation which brings the minor within the jurisdiction of the court or creates the probability that he will soon be within such jurisdiction. Nothing in this section shall be construed to prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within said six-month period. If the probation officer determines that the minor has not involved himself in the specific programs within 60 days, the

03121 28 11 625 913

probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney. However, when in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed under this section.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of restricted dangerous drugs or addiction to narcotics from a county mental health service or other appropriate community agency.

Further, this section shall authorize the probation officer with consent of the minor and the minor's parent or guardian to provide the following services in lieu of filing a petition:

(a) Contract with private or public agencies to provide sheltered-care facilities. Such placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and his family during this period of diversion services. The minor and his parents may be required to make full or partial reimbursement for the services rendered the minor and his family during the diversion process. Referrals for sheltered-care diversion may be made by the minor, his family, schools, law enforcement or any other private or public social service agency.

(b) The probation officer shall be authorized to maintain and operate crisis resolution homes, or contract with private or public agencies offering such services. Residence at such facilities shall be limited to 20 days during which period individual and family counseling shall be extended the minor and his family. Failure to resolve the crisis within the 20-day period may result in the minor's referral to a shelter-care facility for a period not to exceed 90 days. Referrals shall be accepted from the minor, his family, schools, law enforcement or any other private or public social service agency. The minor, his parents, or both, may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors.

(c) The probation officer shall be authorized to staff, maintain, and operate counseling and educational centers. The probation officer shall be authorized to contract with private and public agencies, societies or corporations whose purpose is to provide vocational training or skills. Such centers may be operated separately or in conjunction with crisis resolution homes to be operated by the probation officer. The probation officer shall be authorized to make referrals to the appropriate existing private or public agencies offering similar services when available.

At the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and maintain a followup report of the actual program measures taken.

SEC. 23. Section 655 of the Welfare and Institutions Code is amended to read:

655. (a) When any person has applied to the probation officer,

pursuant to Section 653, to request commencement of juvenile court proceedings to declare a minor a ward of the court under Section 602 and the probation officer does not cause the affidavit to be taken to the prosecuting attorney pursuant to Section 653 within 21 court days after such application, such person may, within 30 court days after making such application, apply to the prosecuting attorney to review the decision of the probation officer, and the prosecuting attorney may either affirm the decision of the probation officer or commence juvenile court proceedings.

(b) When any person has applied to the probation officer, pursuant to Section 653, to commence juvenile court proceedings to declare a minor a dependent child of the court or a ward of the court under Section 601 and the probation officer fails to file a petition within 21 court days after such application, such person may, within 30 days after making such application, apply to the juvenile court to review the decision of the probation officer, and the court may either affirm the decision of the probation officer or order him to commence juvenile court proceedings.

SEC. 24.5. Section 656.1 is added to the Welfare and Institutions Code, to read:

656.1. Any petition alleging that the minor is a person described by Section 602 shall specify as to each count whether the crime charged is a felony or a misdemeanor.

SEC. 25. Section 681 of the Welfare and Institutions Code is repealed.

SEC. 26. Section 681 is added to the Welfare and Institutions Code, to read:

681. (a) In a juvenile court hearing which is based upon a petition that alleges that the minor upon whose behalf the petition is being brought is a person within the description of Section 602, the prosecuting attorney shall appear on behalf of the people of the State of California.

(b) In a juvenile court hearing which is based upon a petition that alleges that the minor upon whose behalf the petition is being brought is a person within the description of Section 601 and the minor who is the subject of the hearing is represented by counsel, the prosecuting attorney may, with the consent or at the request of the juvenile court judge, or at the request of the probation officer with the consent of the juvenile court judge, appear and participate in the hearing to assist in the ascertaining and presenting of the evidence. Where the petition in a juvenile court proceeding alleges that a minor is a person described in subdivision (a), (b), or (d) of Section 600, and either of the parents, or the guardian, or other person having care or custody of the minor, or who resides in the home of the minor, is charged in a pending criminal prosecution based upon unlawful acts committed against the minor, the prosecuting attorney shall, with the consent or at the request of the juvenile court judge, represent the minor in the interest of the state at the juvenile court proceeding. The terms and conditions of such representation shall be

with the consent or approval of the judge of the juvenile court.

SEC. 27. Section 701 of the Welfare and Institutions Code is amended to read:

701. At the hearing, the court shall first consider only the question whether the minor is a person described by Section 600, 601, or 602. The admission and exclusion of evidence shall be pursuant to the rules of evidence established by the Evidence Code and by judicial decision. Proof beyond a reasonable doubt supported by evidence, legally admissible in the trial of criminal cases, must be adduced to support a finding that the minor is a person described by Section 602, and a preponderance of evidence, legally admissible in the trial of civil cases must be adduced to support a finding that the minor is a person described by Section 600 or 601. When it appears that the minor has made an extrajudicial admission or confession and denies the same at the hearing, the court may continue the hearing for not to exceed seven days to enable the prosecuting attorney to subpoena witnesses to attend the hearing to prove the allegations of the petition. If the minor is not represented by counsel at the hearing, it shall be deemed that objections that could have been made to the evidence were made.

SEC. 28. Section 702 of the Welfare and Institutions Code is amended to read:

702. After hearing such evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 600, 601, or 602. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly, and shall then proceed to hear evidence on the question of the proper disposition to be made of the minor. Prior to doing so, it may continue the hearing, if necessary, to receive the social study of the probation officer or to receive other evidence on its own motion or the motion of a parent or guardian for not to exceed 10 judicial days if the minor is detained during such continuance, and if the minor is not detained, it may continue the hearing to a date not later than 30 days after the date of filing of the petition. The court may, for good cause shown continue the hearing for an additional 15 days, if the minor is not detained. The court may make such order for detention of the minor or his release from detention, during the period of the continuance, as is appropriate.

If the minor is found to have committed an offense which would in the case of an adult be punishable alternatively as a felony or a misdemeanor, the court shall declare the offense to be a misdemeanor or felony.

SEC. 28.5. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he was 16

years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

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

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

(3) The minor's previous delinquent history.

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

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

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

(b) 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 one of the following offenses:

(1) Murder;

(2) Arson of an inhabited building;

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

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

(5) Kidnapping for ransom;

(6) Kidnapping for purpose of robbery;

(7) Kidnapping with bodily harm;

(8) Assault with intent to murder or attempted murder;

(9) Assault with a firearm or destructive device;

(10) Assault by any means of force likely to produce great bodily injury;

(11) Discharge of a firearm into an inhabited or occupied building, 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 shall find that the minor is not a fit and proper subject to be dealt with under the juvenile court law unless it concludes that the minor would be amenable to the care, treatment and training program available through the facilities of the juvenile court based upon an evaluation of the following criteria:

(i) The degree of criminal sophistication exhibited by the minor, and

(ii) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction, and

(iii) The minor's previous delinquent history, and

(iv) Success of previous attempts by the juvenile court to rehabilitate the minor, and

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

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and reasons therefor shall be recited in the order. 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. 29. Section 726 of the Welfare and Institutions Code is amended to read:

726. In all cases wherein a minor is adjudged a ward or dependent child of the court, the court may limit the control to be exercised over such ward or dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations, but no ward or dependent child shall be taken from the physical custody of a parent or guardian unless upon the hearing the court finds one of the following facts:

(a) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.

(b) That the minor has been tried on probation in such custody and has failed to reform.

(c) That the welfare of the minor requires that his custody be taken from his parent or guardian.

In any case in which the minor is removed from the physical custody of his parent or guardian as the result of an order or wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense which brought the minor under the jurisdiction of the juvenile court. "Physical confinement", for purposes of this section, means placement in a juvenile home, ranch, camp, or forestry camp pursuant to Section 730, in any institution operated by the Youth Authority. Nothing in this section limits the power of the court to retain the minor on probationary status for the

period permitted by Section 607, and the court may permit a minor to remain in any home or placement facility beyond such maximum term upon the minor's voluntary request.

SEC. 29.3. 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, or is adjudged a ward of the court on the ground that he is a person described by Section 601, 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 boardinghomes 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

03121 2812110 938

appropriate agency designated by the court.

SEC. 29.5. Section 730 of the Welfare and Institutions Code is amended to read:

730. When a minor is adjudged a ward of the court on the ground that he is a person described by Section 602, the court may order any of the types of treatment referred to in Section 727, and as an additional alternative, may commit the minor to a juvenile home, ranch, camp or forestry camp. If there is no county juvenile home, ranch, camp or forestry camp within the county, the court may commit the minor to the county juvenile hall.

When such ward is placed under the supervision of the probation officer or committed to his care, custody and control, the court may make any and all reasonable orders for the conduct of such ward including the requirement that he go to work and earn money for the support of his dependents or to effect reparation and in either case that he keep an account of his earnings and report the same to the probation officer and apply such earnings as directed by the court. The court may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.

SEC. 30. Section 731 of the Welfare and Institutions Code is amended to read:

731. When a minor is adjudged a ward of the court on the ground that he is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 727 and 730, and, in addition may order the ward to make restitution or to participate in uncompensated work programs or may commit the ward to a shelter-care facility or may order that the ward and his family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of such minor or may commit the minor to the Youth Authority.

A minor committed to the Youth Authority may not be held in physical confinement for a period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense which brought the minor under jurisdiction of the juvenile court. Nothing in this section limits the power of the Youth Authority to retain the minor on parole status for the period permitted by Section 1769.

SEC. 32. Article 13.1 (commencing with Section 840) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 13.1. Home Supervision

840. There shall be in each county probation department a program of home supervision to which minors described by subdivision (a) of Section 628.1 shall be referred. Home supervision

is a program in which persons who would otherwise be detained in the juvenile hall are permitted to remain in their homes pending court disposition of their cases, under the supervision of a probation officer or probation aide.

841. The duties of a probation officer or probation aide assigned to home supervision are to assure the minor's appearance at probation officer interviews and court hearings and to assure that the minor obeys the conditions of his release and commits no public offenses pending final disposition of his case. A probation officer or aide assigned to home supervision shall have a caseload of no more than 10 minors. Whenever possible, a minor shall be assigned to a probation officer or aide who resides in the same community as the minor.

SEC. 32.5. Section 881 of the Welfare and Institutions Code is amended to read:

881. The board of supervisors of any county may, by ordinance, establish juvenile homes, ranches, camps, or forestry camps, within or without the county, to which persons made wards of the court on the ground of fitting the description in Section 602 may be committed. As far as possible, the provisions of this chapter relating to commitments to the probation officer shall apply to commitments to such juvenile homes, except that where any ward proves to be unfit to remain in any such home, in the opinion of the superintendent or director thereof, said superintendent or director shall make recommendation to the probation department for consideration for other commitment. Complete operation and authority for the administration shall be vested in the county.

SEC. 33. Section 1737.1 of the Welfare and Institutions Code is amended to read:

1737.1. Whenever any person who has been charged with or convicted of a public offense in adult court and committed to the authority appears to the authority, either at the time of his presentation or after having become an inmate of any institution or facility subject to the jurisdiction of the authority, to be an improper person to be retained in any such institution or facility, or to be so incorrigible or so incapable of reformation under the discipline of the authority as to render his detention detrimental to the interests of the authority and the other persons committed thereto, the authority may return him to the committing court. In the case of a person convicted of a public offense, said court may then commit him to a state prison or sentence him to a county jail as provided by law for punishment of the offense of which he was convicted. The maximum term of imprisonment for a person committed to a state prison under this section shall be a period equal to the maximum term prescribed by law for the offense of which he was convicted less the period during which he was under the control of the Youth Authority. The Adult Authority may, after seeking the advice of the Youth Authority, allow any such person time credit reductions from his term of confinement according to the table set forth in Section 2920

03121 28 12 160 948

of the Penal Code for the time during which such person was under the control of the Youth Authority. This section shall not apply to commitments from juvenile court.

SEC. 34. Section 1769 of the Welfare and Institutions Code is amended to read:

1769. (a) Every person committed to the authority by a juvenile court shall, except as provided in subdivision (b), be discharged upon the expiration of a two-year period of control or when the person reaches his 21st birthday, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800).

(b) Every person committed to the authority by a juvenile court who has been found to be a person described in Section 602 by reason of the violation, when such person was 16 years of age or older, of any of the offenses listed in subdivision (b) of Section 707, shall be discharged upon the expiration of a two-year period of control or when the person reaches his or her 23rd birthday, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800).

SEC. 35. It is the intent of the Legislature that, commencing on January 1, 1979, at least one-half of the judicial officers hearing and disposing of matters in the juvenile court be judges of the juvenile court.

SEC. 36. Section 635 of the Welfare and Institutions Code is amended to read:

635. The court will examine such minor, his parent, guardian, or other person having relevant knowledge, hear such relevant evidence as the minor, his parent or guardian or their counsel desires to present, and, unless it appears that such minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or reasonably necessary for the protection of the person or property of another that he be detained or that such minor is likely to flee to avoid the jurisdiction of the court, the court shall make its order releasing such minor from custody.

The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another that the minor be detained.

SEC. 37. Section 636 of the Welfare and Institutions Code is amended to read:

636. If it appears upon the hearing that such minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or reasonably necessary for the protection of the person or property of another that he be

detained or that such minor is likely to flee to avoid the jurisdiction of the court, the court may make its order that such minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter said order together with its findings of fact in support thereof in the records of the court. The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another that the minor be detained.

If the court finds that the criteria of Section 628.1 are applicable, the court may, and after the operative date of that section the court shall, place the minor on home supervision for a period not to exceed 15 judicial days, and shall enter such order together with its findings of fact in support thereof in the records of the court. If the court releases the minor on home supervision, the court may continue, modify, or augment any conditions of release previously imposed by the probation officer, or may impose new conditions on a minor released for the first time. If there are new or modified conditions, the minor shall be required to sign a written promise to obey such conditions pursuant to Section 628.1.

SEC. 38. Section 727 of the Welfare and Institutions Code is amended to read:

727. (1) When a minor is adjudged a dependent child of the court, on the ground that he is a person described by Section 600, or is adjudged a ward of the court on the ground that he is a person described by Section 601 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 boardinghomes 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

03121 28 12 180 952

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.

(2) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivision (1).

SEC. 39. It is the intent of the Legislature, if this bill and Senate Bill No. 1694 are both chaptered and become effective January 1, 1977, both bills amend Sections 635, 636, and 727 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 1694, that the amendments to Sections 635, 636, and 727 proposed by both bills be given effect and incorporated in Sections 635, 636, and 727 in the forms set forth, respectively, in Sections 36, 37, and 38 of this act. Therefore, Sections 36, 37, and 38 of this act shall become operative only if this bill and Senate Bill No. 1694 are both chaptered and become effective January 1, 1977, both amend Sections 636, 637, and 727, and this bill is chaptered after Senate Bill No. 1694, in which case Sections 16.5, 17, and 29.3 of this act shall not become operative.

SEC. 40. 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 there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1072

An act to add Title 1.6B (commencing with Section 1787.1) to Part 4 of Division 3 of the Civil Code, relating to credit.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

4973 28 12 205 957

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

SECTION 1. Title 1.6B (commencing with Section 1787.1) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.6B. CONSUMER CREDIT DENIAL

Article 1. General Provisions

1787.1. This title may be cited as "The Holden Credit Denial Disclosure Act of 1976."

1787.2. (a) Within 30 days, or at a later reasonable time as specified in federal law or regulations, after receipt of a completed written application for credit, a creditor shall notify the applicant of its action on the application.

(b) Each applicant denied credit shall be entitled to a statement of reasons for such action from the creditor. A creditor satisfies this obligation by:

(1) Providing statements of reasons in writing as a matter of course to applicants denied credit; or

(2) Giving written notification of credit denial which discloses:

(i) The applicant's right to a statement of reasons within 30 days after receipt by the creditor of a request made within 60 days after such notification; and

(ii) The identity and address of the person or office from which the statement of reasons may be obtained.

(3) The statement of reasons may be given orally if the written notification advises the applicant of the right to have the statement of reasons confirmed in writing on written request.

(c) A statement of reasons meets the requirements of this section only if it contains the specific reasons for the credit denial.

(d) Where a creditor has been requested by a third party to make a specific extension of credit directly or indirectly to an applicant, the notification and statement of reasons required by this section may be made directly by such creditor, or indirectly through the third party, provided in either case that the identity of the creditor is disclosed.

(e) For purposes of this section:

(1) The term "applicant" means a natural person who applies for credit primarily for personal, family or household purposes.

(2) The term "credit denial" means a denial or revocation of credit, a change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested. Such term does not include a refusal to extend additional credit under an existing credit arrangement where the applicant is delinquent or otherwise in default, or where such additional credit would exceed a previously established credit limit without a specific written application or

written request for an increase in the credit limit.

(3) The term "creditor" refers only to creditors who regularly extend, or arrange for the extension of, credit whether in connection with loans, sales of property or services, or otherwise.

(f) Nothing in this section shall be construed to limit any authority, derived from other provisions of law, of any state department or agency.

Article 2. Remedies

1787.3. (a) Any creditor who fails to comply with any requirement of Section 1787.2 shall be liable for any actual damages sustained by an applicant as a result of such failure.

(b) Any creditor, other than a government or governmental subdivision or agency, who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than ten thousand dollars ($10,000), in addition to any actual damages provided in subdivision (a), except that in the case of a class action the total recovery under this subdivision shall not exceed the lesser of five hundred thousand dollars ($500,000) or 1 percent of the net worth of the creditor. In determining the amount of such damages in any action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

(c) In the case of any action brought by an aggrieved applicant under subdivision (a) or (b), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court.

(d) No provision of this title imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereby by the Board of Governors of the Federal Reserve System or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the board to issue such interpretations or approvals under such procedures as the board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(e) Actions alleging a failure to comply with any requirement of Section 1787.2 shall be brought within two years from the date of the occurrence of the violation.

SEC. 2. This act shall become operative on March 31, 1977.

4973 28 12 245 965

CHAPTER 1073

An act to amend Sections 3214, 3216, 3234, 3734, 3736, and 3752 of the Public Resources Code, relating to resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 3214 of the Public Resources Code is amended to read:

3214. The log shall be kept in the local office of the owner or operator, and, together with the tour reports of the owner or operator, shall be subject, during business hours, to the inspection of the supervisor, the district deputy, or the director.

SEC. 2. Section 3216 of the Public Resources Code is amended to read:

3216. The owner or operator of any well, or his local agent, shall file with the supervisor a copy of the log, history, and core record, or any portion thereof, at any time after the commencement of the work of drilling any well upon written request of the supervisor, or the district deputy. The request shall be signed by the supervisor, or the district deputy, and served either personally, or by mailing a copy of the request, by registered mail, to the last known post office address of the owner or operator, or his agent.

SEC. 3. Section 3234 of the Public Resources Code is amended to read:

3234. (a) Except as otherwise provided in this section, all the well records, including production reports, of any owner or operator which are filed pursuant to this chapter shall be public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

Such records shall be public records when filed with the division unless the owner or operator requests, in writing, the division to retain the well records confidential. For onshore wells, the confidential period shall not exceed two years from the cessation of drilling operations as defined in subdivision (e). For offshore wells, the confidential period shall not exceed five years from the cessation of drilling operations as defined in subdivision (e).

Well records retained confidential by the division shall be open to inspection to those persons authorized in writing by the owner or operator. Confidential status shall not apply to state officers charged with regulating well operations, the director, or as provided in subdivision (c).

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 confidentiality to prospect well records and offshore well records. For prospect wells, the total period of confidentiality, including all extensions, shall not exceed four years from the cessation of drilling operations as defined in subdivision (e), and for offshore wells the total period of confidentiality, including all extensions, shall not exceed seven years from the cessation of drilling operations as defined in subdivision (e), 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 confidentiality 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 either experimental logs and tests or interpretive data not generally available to all operators, as defined by the supervisor by regulation.

(e) Cessation of drilling operations occurs on the date of removal of drilling machinery from the well site.

SEC. 4. Section 3734 of the Public Resources Code is amended to read:

3734. The log shall be kept in the local office of the owner or operator and, together with the tour reports of the owner or operator, shall be subject, during business hours, to the inspection of the board, the supervisor, or the district deputy.

SEC. 5. Section 3736 of the Public Resources Code is amended to read:

3736. The owner or operator of any well, or his local agent, shall file with the supervisor a copy of the log, history, and core record, or any portion thereof, at any time after the commencement of the work of drilling any well upon written request of the supervisor, or the district deputy. The request shall be signed by the supervisor, or the district deputy, and served either personally, or by mailing a copy of the request, by registered mail, to the last known post office address of the owner or operator, or his agent.

SEC. 6. Section 3752 of the Public Resources Code is amended to read:

3752. (a) Except as otherwise provided in this section, all the well records, including production records, of any owner or operator which are filed pursuant to this chapter shall be public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

41581 28 12 290 974

Such records shall be public records when filed with the division, unless the owner or operator requests, in writing, the division to retain the well records confidential. The confidential period shall not exceed five years from the date of production or injection for other than testing purposes or abandonment, whichever occurs first. Well records retained confidential by the division shall be open to inspection to those persons authorized in writing by the owner or operator. For the purpose of this section, "date of production for other than testing purposes" means the date on which, in the judgment of the supervisor, sustainable production commenced into a power generating plant, greenhouse, space heating unit, chemical or mineral extraction plant, or other facility dependent wholly or in part upon geothermal resources for its operation. Confidential status shall not apply to state officers charged with regulating well operations, the director, or as provided in subdivision (b).

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 confidentiality. The total period of confidentiality, including all extensions, shall not exceed seven years from the date of production or injection for other than testing purposes or abandonment, 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 3745 is located.

(c) For the purposes of this section, "well records" shall not include either experimental logs and tests or interpretive data not generally available to all operators, as defined by the supervisor by regulation.

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 clarify certain provisions governing the confidentiality of oil, gas, and geothermal well records which will be given effect on July 1, 1976, and to thereby provide for the efficient regulation of such wells by the state, it is necessary that the provisions of this act go into immediate effect.

CHAPTER 1074

An act to amend Sections 4186 and 4425 of, and to add Sections 4423.1, 4423.2, 4423.3, 4423.4, and 4423.5 to, the Public Resources Code, relating to forest protection, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 4186 of the Public Resources Code is amended to read:

4186. All money which is received by this state pursuant to the Clarke-McNary Act and which is regularly allotted by the federal government according to an annual formula shall be paid into the General Fund. Any supplemental money received from the federal government pursuant to the Clarke-McNary Act for use by the division for specially designated projects shall be authorized by the Director of Finance for augmentation of the subitem captioned "Reimbursements" of the principal item of appropriation from the General Fund for the support of the department contained in the Budget Act for the fiscal year during which such supplemental money is received; provided, however, that the Director of Finance may not authorize such augmentation sooner than 30 days after notification in writing of the necessity therefor to the chairman of the committee in each house which considers appropriations and to the Chairman of the Joint Legislative Budget Committee or sooner than such lesser time as the chairman of such committee, or his designee, may in each instance determine.

SEC. 2. Section 4423.1 is added to the Public Resources Code, to read:

4423.1. Burning under permit or other uses of open fire by any person on public or private lands, except within incorporated cities, may be suspended or otherwise prohibited by proclamation. The following public officers may issue such a proclamation, which shall be applicable within their respective jurisdictions:

(a) The State Forester.

(b) Any county fire warden with the approval of the State Forester.

(c) The federal officers directing activities within California of the United States Bureau of Land Management, the National Park Service, and the United States Forest Service.

Such proclamation may be issued when in the judgment of the issuing public official the menace of destruction by fire to life, improved property, or natural resources is, or is forecast to become, extreme due to critical fire weather, fire suppression forces being

heavily committed to control fires already burning, acute dryness of the vegetation, or other factors that may cause the rapid spread of fire. A proclamation shall be effective on issuance or at a time specified therein and remain in effect until an order of termination is issued. The proclamation shall declare the conditions that necessitate its issuance, designate the geographic area to which it applies, require that all or specified uses of open fire or burning under permit be suspended until the conditions necessitating the proclamation abate, and identify the public official issuing the proclamation. The proclamation shall be immediately released to the news media serving the area affected. Upon termination of a proclamation, the public shall be given immediate notice thereof through the news media serving the area affected thereby.

The proclamation may be issued without complying with provisions of Chapters 4.5 (commencing with Section 11371) and 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.

SEC. 3. Section 4423.2 is added to the Public Resources Code, to read:

4423.2. Whenever the use of open fire or burning under permit has been suspended by proclamation pursuant to Section 4423.1, the officer having jurisdiction may issue a restricted temporary burning permit in instances in which the continuation of burning or use of open fire may be essential for reasons of public health, safety, or welfare. Such permit may stipulate any special precautions that must be followed to reduce the risk of uncontrolled fire originating from such operation. Violation of the terms of a restricted temporary burning permit is a misdemeanor and any person upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars ($250). No part of such fine shall be suspended. The court may permit the fine prescribed by this section to be paid in installments if the court determines that the defendant is unable to pay the fine in one lump sum.

SEC. 4. Section 4423.3 is added to the Public Resources Code, to read:

4423.3. Issuance of a proclamation pursuant to Section 4423.1 shall not preclude the use of a campfire when kindled in facilities constructed for that purpose within the confines of a campground established, maintained, and open for public use, whether publicly or privately owned, unless such activity is specifically prohibited in the text of the proclamation.

SEC. 5. Section 4423.4 is added to the Public Resources Code, to read:

4423.4. Issuance of a proclamation pursuant to Section 4423.1 shall not preclude smoking on the following private or public lands unless smoking is specifically prohibited by proclamation or county ordinance:

(a) Within motor vehicles while operating or parked on established roads, rest stops, or parking areas cleared of flammable vegetation.

41670 28 12335 983

(b) Within established campgrounds open to the public.

(c) Within an area that is at least three feet or approximately one meter in diameter which has been cleared to mineral soil by removal of all flammable vegetation and duff.

SEC. 6. Section 4423.5 is added to the Public Resources Code, to read:

4423.5. Use of open fire or burning under permit within an area closed by proclamation pursuant to the provisions of Section 4423.1, except as provided in Sections 4423.2, 4423.3, and 4423.4, is a misdemeanor and any person upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100). No part of such fine shall be suspended. The court may permit the fine prescribed by this section to be paid in installments if the court determines that the defendant is unable to pay the fine in one lump sum.

SEC. 7. Section 4425 of the Public Resources Code is amended to read:

4425. Any violation of the terms of a burning permit issued pursuant to Section 4423, a restricted temporary burning permit issued pursuant to Section 4423.2, or a campfire permit issued pursuant to Section 4433 renders the permit null and void.

SEC. 8. 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 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.

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

Because an exceptionally high risk of forest and grass fires exists and will persist until the winter rains commence in 1976, it is essential that this act take effect immediately.

CHAPTER 1075

An act to amend Section 83122 of the Government Code, relating to political reform, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 83122 of the Government Code is amended to read:

83122. There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars ($500,000) during the fiscal year of 1974–1975, and the sum of one million dollars ($1,000,000), adjusted for cost-of-living changes, during each fiscal year thereafter, for expenditure to support the operations of the commission pursuant to this title. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate such additional amounts to the commission and other agencies as may be necessary to carry out the provisions of this title.

The Department of Finance, in preparing the state budget and the Budget Bill submitted to the Legislature, shall include an item for the support of the Political Reform Act of 1974, which item shall indicate all of the following: (1) the amounts to be appropriated to other agencies to carry out their duties under this title, which amounts shall be in augmentation of the support items of such agencies; (2) the additional amounts required to be appropriated by the Legislature to the commission to carry out the purposes of this title, as provided for in this section; and (3) in parentheses, for informational purposes, the continuing appropriation during each fiscal year of one million dollars ($1,000,000) adjusted for cost-of-living changes made to the commission by this section.

The definition of "expenditure" in Section 82025 is not applicable to 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:

In order that this revised method of funding the operation of the Political Reform Act may be in effect for the 1976–77 fiscal year this bill must be given immediate effect.

CHAPTER 1076

An act to amend Section 1062a of the Code of Civil Procedure, relating to declaratory relief actions.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

4 1782 28 12 395 995

SECTION 1. Section 1062a of the Code of Civil Procedure is amended to read:

1062a. (a) Except as provided in subdivision (b), actions brought under the provisions of this chapter shall be set for trial at the earliest possible date and shall take precedence of all other cases, except older matters of the same character and matters to which special precedence may be given by law.

(b) Any action brought under the provisions of this chapter in which the plaintiff seeks any relief, in addition to a declaration of rights and duties, shall take such precedence only upon noticed motion and a showing that the action requires a speedy trial.

CHAPTER 1077

An act to add Section 12022.5 to the Business and Professions Code, relating to sale of meat.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 12022.5 is added to the Business and Professions Code, to read:

12022.5. Fresh meat or roasts of any kind or cut shall be exposed, advertised, offered for sale or sold on the basis of net weight of the fresh meat or roast only, and any added fat of any kind whatsoever either wrapped within or injected with a larding needle or otherwise inserted in such fresh meat or roast shall be considered as tare weight only.

Notwithstanding the above provision, added fat shall not be considered tare weight if the meat package containing such added fat is clearly and prominently labeled in eight-point type or larger with the term "fat added."

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 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 and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1078

An act to add Article 12.5 (commencing with Section 73790) to Chapter 10 of Title 8 of, and Article 31 (commencing with Section 74780) to Chapter 10 of Title 8 of, and to repeal Article 13 (commencing with Section 73820) of Chapter 10 of Title 8 of, and Article 31 (commencing with Section 74780) of Chapter 10 of Title 8 of, the Government Code, relating to courts.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Article 12.5 (commencing with Section 73790) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 12.5. Merced County

73790. There is hereby created a municipal court district which embraces the entire County of Merced. This article applies to the municipal court established within the district, which shall be known as the Merced County Municipal Court.

73791. There shall be three judges of the Merced County Municipal Court.

73792. (a) Facilities for the court shall be maintained at or near the county seat and at court facilities provided elsewhere as determined by ordinance adopted by the board of supervisors. The court shall determine the nature and frequency of sessions held at additional court locations designated by the board of supervisors.

(b) The judges of the court may, by rule, establish an area surrounding a court location from which jurors for trials held at that location shall be selected.

73793. There shall be one administrative officer of the court known as the municipal court clerk-administrator, who shall be appointed by a majority of the judges of the court. The court clerk-administrator shall receive a biweekly salary on range 45.

73794. There may be two traffic referees who shall be appointed by a majority of the judges of the court. A traffic referee shall receive a biweekly salary on range 41. The provisions of Section 72400 do not apply to the traffic referees appointed pursuant to this section.

A traffic referee of the court shall have the powers and duties specified for traffic referees in Sections 72401, 72402, and 72403.

73795. The initial appointment of the court clerk-administrator and each traffic referee shall be made from those persons who have served as justice court judges in Merced County during the year of 1976. The court clerk-administrator and traffic referees initially appointed shall receive the salary provided for in their respective ranges at the fifth step.

73796. There shall be one marshal of the Merced County Municipal Court. The marshal shall receive a salary of seventeen thousand seven hundred dollars ($17,700) per year.

The office of marshal shall be filled initially by appointment by a majority of the judges of the court from among those persons who have served as constable of a justice court in Merced County during the year of 1976.

73797. (a) The marshal may appoint:

(1) One assistant marshal on range 41.

(2) Six deputy marshals II on range 38.

(3) Two civil assistants on range 28.

(b) The initial appointments to the positions of assistant marshal and deputy marshal shall be made from persons who have served as constables in a justice court in Merced County during the year of 1976. Such appointees shall become deputy marshals II and receive the salary provided at the fifth step of the range designated for deputy marshal II. The assistant marshal initially appointed shall receive the salary provided at the fifth step of the range designated for assistant marshal.

73798. The clerk-administrator may appoint:

(a) One supervising municipal court clerk on range 35.5.

(b) Eight deputy court clerks II on range 30.

(c) Seventeen deputy court clerks I on range 28.

73799. (a) The clerks and other attachés of the justice courts in Merced County superseded by the municipal court created by this article shall succeed to positions in the municipal court equivalent to, or as nearly equivalent to, the positions such persons hold in the justice courts on the date the justice courts are superseded. The court clerk-administrator shall carry out this section pursuant to his authority under Section 73798.

(b) Any person who has served as justice court judge in Merced County during the year of 1976, has completed his current term of office, and is not appointed as the clerk-administrator or a traffic referee of the court, shall succeed to the position of deputy court clerk II to serve at the same salary and under the same terms and conditions of employment as other deputy court clerks II appointed pursuant to Section 73798.

73800. (a) Whenever reference to a numbered salary range is made in any section of this article, the schedule of biweekly salaries found in the salary and personnel ordinance of the County of Merced in effect on July 1, 1976, shall apply.

(b) Subject to the provisions of the salary ordinance of the County of Merced, each person employed in the clerk's office or marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position.

(c) Notwithstanding any other provision in this article, the salaries of municipal court employees may, upon approval by the board of supervisors, be increased in the same manner and at the

same rate as a salary increase is effective for other permanent county salaried employees. It is the purpose of this section to provide compensation for municipal court employees which is comparable to that paid to county employees of similar qualifications and experience holding equal or comparable positions in the Merced County classified service, as such comparability is determined by the Merced County Board of Supervisors.

Any adjustment of salaries made pursuant to this subdivision shall remain in effect only until January 1 of the second year following the year in which such adjustment is made.

(d) Employees of the municipal court shall be entitled to all employee benefits that are provided for or made applicable to employees within the classified service pursuant to Merced County ordinances or resolutions, to the extent that the benefits are not contrary to state law.

All matters affecting the employment of such municipal court employees which are not specifically determined by other provisions of state law, shall be governed and regulated by the personnel ordinances and resolutions of the Board of Supervisors of the County of Merced in effect on July 1, 1976. If any such personnel ordinance or resolution is amended or a new personnel ordinance or resolution is adopted, such amendment or new ordinance or resolution shall be applicable to municipal court employees only until January 1 of the second year following the year such amendment or new ordinance or resolution is enacted.

73801. With the approval of the board of supervisors, a majority of the judges of the court may establish positions for officers, attachés, and employees in addition to those provided by this article. The order and approval establishing any such position shall designate the position title and pay rate and whether the provisions of Section 73800 are applicable to the position.

With the approval of the board of supervisors, a majority of the judges may appoint and employ such additional officers, attachés, and employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members.

Appointments made pursuant to this section shall be on an interim basis and shall expire January 1 of the second year following the year in which such appointments are made.

73802. All fees collected by court officers and attachés for official duties shall be deposited in the county treasury.

SEC. 2. Article 13 (commencing with Section 73820) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 3. Article 31 (commencing with Section 74780) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 4. Article 31 (commencing with Section 74780 is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 31. Stanislaus County

74780. This article applies to the municipal court established in a judicial district embracing the County of Stanislaus. This court shall be known as the Stanislaus County Municipal Court.

74781. There shall be seven judges.

74782. (a) Whenever reference to a numbered salary range is made in any section of this article, the schedule found in the salary and position allocation resolution of the County of Stanislaus in effect July 1, 1976, shall apply.

(b) Except as otherwise provided in this article, each new officer or employee shall for the first six full calendar months of continuous service receive a salary at the monthly rate specified for step 1 of the applicable range; on the first day of the next calendar month thereafter, his salary may increase to the rate of step 2; after one, two and three additional years of continuous service, his salary may increase to the rates for steps 3, 4, and 5 respectively. These increases shall be granted only with the approval of the officer's or employee's appointing authority.

(c) Notwithstanding any other provisions of law, the salary of any officer or employee may be increased by the board of supervisors in order to provide compensation that is comparable to that of county employees of similar qualifications and experience, holding equal or comparable positions in the Stanislaus County classified service, as the comparability is determined by the board. If the salaries of incumbent officers and employees are increased to provide compensation that is comparable to that of county employees holding comparable positions, the officers and employees may, with the approval of their appointing authority, retain the same salary step in the salary range made applicable to their position as they occupied under the superseded salary range. For the purpose of determining eligibility for subsequent annual increments, however, the officer's and employee's anniversary date for step advancement shall not change. 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.

(d) If any officer or employee in the service of the court is appointed or promoted to another officer or position in such service which is compensated at a higher salary range, he shall receive step 1 of the salary range if step 1 is at least 5 percent higher than the salary received in the office or position relinquished; but if not, he shall receive initially that step of the salary range pertaining to such office or position which will provide not less than a 5-percent increase in his compensation. For the purpose of determining eligibility for subsequent annual increments, the officer's or employee's anniversary date for step advancement will be changed to the first day of the next calendar month following the date of promotion, unless the promotion is effective on the first regular

working day of the month.

(e) If any officer or employee in the service of the court is demoted to another office or position, he shall receive compensation at the highest step of the salary range 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 the demotion is due to disciplinary action, the appointing authority may specify any step rate of such salary range which provides compensation not higher than that last previously received by the person. For the purposes of determining eligibility for subsequent annual increments, the officer's or employee's anniversary date for step advancement will be changed to the first day of the next calendar month following the date of demotion, unless the demotion is effective on the first regular working day of the month.

74783. There shall be one clerk who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The clerk shall be on salary range 52C. The clerk may appoint, with the approval of the judges of the court:

(a) One assistant clerk on range 46C.
(b) Eight municipal court clerks on range 40D.
(c) One legal clerk on range 38B.
(d) Four account clerks III on range 37B.
(e) One clerk III on range 36B.
(f) Five account clerks II on range 34B.
(g) Fourteen clerks II on range 33B.

74784. There shall be one marshal who shall be appointed by and serve at the pleasure of a majority of the judges of the court, and who shall be on range 49B. The marshal may appoint with the approval of the judges of the court:

(a) One sergeant deputy marshal on range 46A.
(b) Eight deputy marshals on range 43A.
(c) One account clerk II on range 34B.
(d) Two typist-clerks II on range 33B.
(e) Two deputy marshals who shall be custodians at the fee allowed by law for keeping property.

74785. Official reporters in the municipal court appointed pursuant to Section 72194 shall be attachés of the court and, in lieu of any other compensation provided by law for their services in reporting testimony in criminal proceedings in the court shall receive a monthly salary equivalent to range 50D.

74786. In addition to the compensation provided by this article, unless otherwise provided by administrative rule of court, the employees, attachés, and other personnel of the court shall receive the same holidays, vacations, sick leaves, and retirement benefits as the employees of the County of Stanislaus pursuant to the Ordinance Code of the County of Stanislaus.

74787. The court may establish by rule areas surrounding court locations from which jurors for trials held at such locations shall be selected.

74788. Pursuant to Section 72194, the judges of the court may appoint as many 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 the fees provided by Sections 69947 to 69953, inclusive, which shall upon order of the court be a charge against the general fund of the county.

74789. As otherwise provided by law, fees for transcription of testimony and proceedings in the court shall be paid by the litigants to official reporters and official reporters pro tempore. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, the 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 and 69953, inclusive, which shall be paid from the county treasury.

74790. Official reporters of the court shall be members of any retirement system maintained by the county in which they are employed. For the purpose of the retirement system, the compensation of each reporter shall be the total of all per diem and transcription fees paid by the county to all of the reporters of the municipal court for all phonographic-reporting services, divided by the number of municipal court official reporters, plus his salary.

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 governmental entity or entities which desire legislative authority to act and to carry out the program specified in this act.

CHAPTER 1079

An act to amend Sections 2124, 3521, and 5250 of the Business and Professions Code, to amend Section 3333.1 of the Civil Code, to amend Section 1295 of the Code of Civil Procedure, to amend Section 29592 of the Corporations Code, to amend Sections 454.5 and 29026 of, to amend and renumber Section 19571.56 of, to add Chapter 4.5 (commencing with Section 22670) to Division 16.5 of, and to repeal Chapter 4.5 (commencing with Section 23521) of Division 16.5 of, the Education Code, to amend Sections 6329 and 10013 of the Elections Code, to amend Section 1860 of, and to amend and renumber the heading of Chapter 8 (commencing with Section 1750) of Division 2 of, the Fish and Game Code, to amend Sections 102, 224, 4482, 11711, 12041, 37650, and 61343 of, to amend the heading of Part 1 (commencing with Section 101) of Division 1 of, to repeal Sections 58942 and 58943 of, and to repeal Article 5 (commencing with Section 491) of Chapter 3 of Part 1 of Division 1 of, the Food and Agricultural Code, to amend Sections 6204, 8701, 14842, 20815, 21222.3, 70046, and

74662 of, to amend and renumber Section 20951 of, to amend and renumber the heading of Chapter 17.5 (commencing with Section 7300) of Division 7 of Title 1 of, to add Chapter 20 (commencing with Section 7525) to Division 7 of Title 1 of, to repeal Sections 12532.3 and 12532.75 of, and to repeal Chapter 23 (commencing with Section 7800) of Division 7 of Title 1 of, the Government Code, to amend Section 13114 of, to amend and renumber Section 1275 of, and to add Sections 1373.2 and 1373.4 to, the Health and Safety Code, to amend Section 11580.07, 12120, and 12405 of, to amend and renumber Section 10127 of, and to amend and renumber the heading of Article 5.5 (commencing with Section 10508) of Chapter 5 of Part 2 of Division 2 of, the Insurance Code, to amend Section 5100.6 of, to add Chapter 8 (commencing with Section 1130) to Part 3 of Division 2 of, and to repeal Chapter 8 (commencing with Section 1150) of Part 3 of Division 2 of, the Labor Code, to amend Sections 830.2, 830.4, 830.36, 1269b, 1374, and 12093 of, and to amend and renumber Section 4016 of, the Penal Code, to amend Section 205 of the Probate Code, to amend Sections 2203, 3752, 6336, and 6873.2 of, and to amend and renumber Section 9178.5 of, the Public Resources Code, to amend Sections 20, 3547, 99233.6, and 120107 of, and to amend and renumber Sections 16477, as added by Chapter 301 of the Statutes of 1973, and 16477, as added by Chapter 194 of the Statutes of 1974, of, the Public Utilities Code, to amend Sections 283, 2189.3, 2189.5, 2191.3, 2206.5, 2954, 3805, 4672, and 6363.5 of the Revenue and Taxation Code, to amend Sections 186, 2804.1, 2804.2, and 27551 of, and to repeal 27534 of, the Streets and Highways Code, to amend Sections 636 and 3003 of the Unemployment Insurance Code, to amend Sections 9252, 12650, 16500, and 21055 of, to amend the heading of Chapter 3 (commencing with Section 42270) of Division 18 of, to amend and renumber Section 39012 of, to amend and renumber the heading of Article 11 (commencing with Section 28070) of Chapter 5 of Division 12 of, and to repeal Section 36620 of, the Vehicle Code, to amend Sections 727, 3052, 7375, 10553.1, 10554.1, 10605, 10605.1, 10609.1, 11006.9, and 14459 of, and to repeal Article 1.5 (commencing with Section 11025) of Chapter 1 of Part 3 of Division 9 of, the Welfare and Institutions Code, to repeal Section 4.5 of Chapter 805 of the Statutes of 1969, to amend Section 2 of Chapter 1258 of the Statutes of 1974, and to amend Section 5 of Chapter 1233 of the Statutes of 1975, relating to maintenance of the codes.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 2124 of the Business and Professions Code 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.

(g) 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.

(h) Seek injunctions or restraining orders pursuant to Section 2436.

(i) 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. 2. Section 3521 of the Business and Professions Code 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), an application fee of ten dollars ($10) shall be charged to each physician applicant for each application.

(b) Except as provided in subdivision (m), an 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 certification 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.

SEC. 3. Section 5250 of the Business and Professions Code is amended to read:

5250. The director may make orders and regulations for the enforcement of this chapter and he may authorize the Division of Highways of the Department of Transportation to enforce its provisions.

SEC. 4. Section 3333.1 of the Civil Code 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. 5. Section 1295 of the Code of Civil Procedure 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) Subdivisions (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. 6. Section 29592 of the Corporations Code is amended to read:

29592. In any proceeding under this law, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

SEC. 7. Section 454.5 of the Education Code is amended to read:

454.5. Notwithstanding any other provision of law, any party receiving surplus food pursuant to this article which elects to take direct delivery thereof from the federal government shall be required to reimburse the agency only for the actual cost to the agency of processing the documents relating to each such direct delivery of surplus food. Any party electing to take direct delivery must demonstrate that party's capability for the proper storage and distribution of the surplus food in accordance with regulations adopted by the Superintendent of Public Instruction.

SEC. 8. Section 19571.56 of the Education Code is amended and renumbered to read:

19571.54. Whenever a school district has received an increased building cost allowance pursuant to Section 19571 or 19571.3 for the purpose of providing facilities for year-around school operation as defined in Section 19571.6, and in any fiscal year subsequent to the fiscal year in which the facilities are completed fails to conduct such a year-around school operation, the Director of General Services shall in the following fiscal year deduct an amount from the eligible bonded debt service of the district equal to one-twentieth of the amount of such increased cost allowance plus interest thereon. The total amount to be deducted in subsequent fiscal years after the completion of such facilities shall not exceed seven-twentieths of the amount of the increased allowance, plus interest.

SEC. 9. Chapter 4.5 (commencing with Section 23521) of Division 16.5 of the Education Code is repealed.

SEC. 10. Chapter 4.5 (commencing with Section 22670) is added to Division 16.5 of the Education Code, to read:

CHAPTER 4.5. INTERSEGMENTAL COOPERATION

22670. Within such differentiation of segmental function in public postsecondary education the institutions shall undertake intersegmental cooperation when it can:

(a) Enhance the achievement of the institutional missions shared by the segments.

(b) Enable public and private postsecondary education to more effectively meet the educational needs of a geographic region.

(c) Provide more effective planning of postsecondary education on a statewide basis.

SEC. 11. Section 29026 of the Education Code is amended to read:

29026. No person, either on his own behalf or as the representative of any privately conducted correspondence school or of any private person, firm, association, partnership, or corporation whatever, shall, by personal contact, in California, solicit the sale of or solicit and sell any correspondence course of study beyond high school, of high school level, or below high school level, for a remuneration or other consideration to be provided for such course, unless he holds a valid permit to engage in such activity issued by the

State Board of Education. The State Board of Education may delegate its authority to issue this permit to the State Superintendent of Public Instruction.

The State Board of Education, or the State Superintendent of Public Instruction, if such authority has been delegated by the State Board of Education, shall promptly cause to be prepared, and shall, pursuant to this section, issue appropriate permits authorizing the holder to engage in the solicitation of sales and the selling of such courses of study.

No person shall be issued a permit except upon the submission of satisfactory evidence of good moral character.

A permit shall be valid for the calendar year in which it is issued unless sooner revoked or suspended by the State Board of Education for fraud or misrepresentation in connection with the solicitation for the sale or the sale of any course of study, or for the existence of any condition in respect to the permittee or the school he represents which, if in existence at the time the permit was issued would have been ground for denial of the permit.

The application for a permit shall be made by the person who proposes to engage in the activities of soliciting or selling in those cases where such activities are to be conducted in the person's own behalf. Where the person for whom the issuance of a permit is sought is to engage in the activities as a representative, the application shall be made by the correspondence school or other person, firm, association, partnership, or corporation for and on behalf of the person to serve as its representative. Applications shall be submitted on forms to be furnished by the Department of Education. The original application, renewal applications when renewed on a continuous basis, and applications for additional sales permits shall be accompanied by an application fee in an amount established pursuant to subdivision (e) of Section 29027. Fees required by this section are hereby appropriated in augmentation of the appropriation for support of the Department of Education current at the date of issuance of the State Controller's receipt thereof as may be designated by the Department of Education prior to their deposit in the State Treasury and shall be nonrefundable irrespective of whether or not a permit is subsequently issued.

The application shall be accompanied by a bond executed by good and sufficient sureties making provision for full indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the permit. The bond may be supplied by the correspondence school or other person, firm, association, partnership, or corporation, or by the person for whom issuance of the permit is sought, and may extend to cover either an individual such person or to provide blanket coverage for all persons to be engaged as representatives of a correspondence school or other person, firm, association, partnership or corporation in the

solicitation for sale or the sale of correspondence courses of study in California. Any bond shall provide for liability in the penal sum of one thousand dollars ($1,000) for each representative to whom coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the State Board of Education.

The permittee shall carry the permit with him for identification purposes when engaged in the solicitation of sales and the selling of correspondence courses of study.

Any contract for or in connection with a course of study with a correspondence school, or representative thereof, shall be voidable at the option of the purchaser if the representative of any person selling or administering such course of study, or the representative of such firm, association, partnership or corporation was not the holder of a permit as required by this section at the time that such representative negotiated the contract for or sold such course.

In any written contract or agreement for a course of study with a correspondence school there shall be included on the first page of such agreement or contract in 14-point boldface print or larger, the following statement:

"Any questions or problems concerning this school which have not been satisfactorily answered or resolved by the school should be directed to the Director of Education, Department of Education, Sacramento, California, 95814."

In addition, such written contracts or agreements shall specify, on the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the correspondence school in numbers or letters, or both, which are of larger print than the rest of the contract or agreement.

The judgment rendered in any action maintained for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study shall, if the plaintiff is the prevailing party, include court costs including a reasonable attorney's fee fixed by the court.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the State Board of Education made pursuant to this section.

The issuance of a permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any such permit to expressly or impliedly represent by any means whatever that the Superintendent of Public Instruction, the State Board of Education, or the Department of Education has made, any evaluation, recognition, accreditation or endorsement of any correspondence course of study being offered for sale by the individual.

It shall be unlawful for any individual holding a permit under this section and for any salesman, agent or representative of such

individual to expressly or impliedly represent by any means whatever that the issuance of the permit constitutes an assurance by the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education that any correspondence course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, educational, or vocational objective, or will result in membership in any union or similar organization or will result in employment or personal earnings for the student.

The issuance of a permit under this section, and the possession thereof, by an individual, shall be evidence only that the surety bond prescribed by this section has been issued with respect to the possessor and that he has submitted satisfactory evidence of good moral character.

SEC. 12. Section 6329 of the Elections Code is amended to read:

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. 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.

SEC. 13. Section 10013 of the Elections Code is amended to read:

10013. Each voter's pamphlet prepared pursuant to Section 10012 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. 14. The heading of Chapter 8 (commencing with Section 1750) of Division 2 of the Fish and Game Code is amended and renumbered to read:

CHAPTER 7.5. NATIVE SPECIES CONSERVATION AND ENHANCEMENT

SEC. 15. Section 1860 of the Fish and Game Code is amended to read:

1860. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision of land pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) and any other division of land, including lot splits; change in the intensity of use of water, ecology related thereto, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility, and the removal or logging of major vegetation. As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, or electrical power transmission and distribution line.

SEC. 16. The heading of Part 1 (commencing with Section 101) of Division 1 of the Food and Agricultural Code is amended to read:

PART 1. THE DEPARTMENT OF FOOD AND AGRICULTURE

SEC. 17. Section 102 of the Food and Agricultural Code is amended to read:

102. The department is under the control of a civil executive officer known as the Director of Food and Agriculture. He shall be appointed by, and hold office at the pleasure of, the Governor. The director shall execute and deliver, as provided by law, an official bond in the sum of twenty-five thousand dollars ($25,000).

SEC. 18. Section 224 of the Food and Agricultural Code is amended to read:

224. Money transferred by the Controller to the Department of Agriculture Fund from the Motor Vehicle Fuel Account pursuant to Section 8352.5 of the Revenue and Taxation Code shall be expended

by the Director of Food and Agriculture as follows:

(1) Five hundred thousand dollars ($500,000) of the amount transferred each fiscal year is hereby appropriated for reimbursement for charges for state administrative costs, and for departmental and divisional overhead expense apportioned to the Department of Agriculture Fund.

(2) One million dollars ($1,000,000) each fiscal year is hereby appropriated to be used only for emergency detection, eradication, or research of agricultural plant or animal pests or diseases, during such fiscal year. The Director of Food and Agriculture may expend such funds with the approval of the Director of Finance. At the end of each fiscal year, any unencumbered balance of such funds shall be added to the amount available for payment to counties during the next fiscal year, as provided in subdivision (3).

(3) The total amount transferred during each fiscal year less the amounts provided in subdivisions (1) and (2) is hereby appropriated to be paid to the counties as partial reimbursement for county expenses for carrying out agricultural programs authorized by this code that are supervised by the department. Such payment shall be apportioned to the counties by the director in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for such agricultural programs, as determined by the director. The amount to be transferred to any county for a fiscal year may be increased or decreased by the director to provide that insofar as such transferred unclaimed refundable gas tax funds for apportionment to the counties are available, no county shall receive smaller combined apportionments of gas taxes and unclaimed refundable gas taxes than such county would have received had the gas taxes been apportioned without the transfer required by Section 8352.5, as determined by the director, except that the amount of unclaimed refundable gas tax funds to be transferred to any county for a fiscal year may be increased or decreased by the director to compensate for incorrect previous transfers to that county.

(4) Such money transferred during the six-month period, July 1, 1970 to December 31, 1970, is hereby appropriated for the purpose provided by subdivision (1) of this section, and the remainder of the money so transferred is hereby appropriated to be paid to the counties for the purposes and as provided by subdivision (3) of this section. Such money transferred for the six-month period, January 1, 1971, to June 30, 1971 is hereby appropriated for the purpose provided by subdivision (2) of this section, and the remainder of the money so transferred is hereby appropriated to be paid to the counties for the purposes and as provided by subdivision (3) of this section.

SEC. 19. Article 5 (commencing with Section 491) of Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code is repealed.

SEC. 20. Section 4482 of the Food and Agricultural Code is amended to read:

4482. Any expenditure shall be made pursuant to a budget which is submitted to the Department of Food and Agriculture and approved by the Department of Finance pursuant to Sections 13320 to 13324, inclusive, of the Government Code.

SEC. 21. Section 11711 of the Food and Agricultural Code is amended to read:

11711. Unless worker's compensation insurance is not required, no license may be issued or renewed under this chapter to any person who is an employer, as defined in Section 3300 of the Labor Code, unless the application is accompanied by identification and the number and expiration date of the worker's compensation insurance policy of the applicant or the applicant is a qualified self-insurer.

SEC. 22. Section 12041 of the Food and Agricultural Code is amended to read:

12041. There is in the department an Agricultural Pest Control Advisory Committee consisting of 11 members. The committee shall be appointed by the director and shall be composed of two pest control research specialists and one agricultural extension service specialist nominated by the Regents of the University of California, and eight additional members, one each representing the following: the California State University and Colleges, agricultural pest control advisers, licensed pest control operators, the State Department of Health, the Department of Fish and Game, producers as defined in Section 56110, the agricultural chemical industry, and the department.

SEC. 23. Section 37650 of the Food and Agricultural Code is amended to read:

37650. If vegetables are added to cottage cheese or lowfat cottage cheese, whether the vegetables are a single variety or a combination of two or more varieties, the amount which is added shall not be less than 5 percent and not more than 20 percent by weight of the finished product.

SEC. 24. Section 58942 of the Food and Agricultural Code is repealed.

SEC. 25. Section 58943 of the Food and Agricultural Code is repealed.

SEC. 26. Section 61343 of the Food and Agricultural Code is amended to read:

61343. Any person and subject matter to which this chapter is applicable is not subject to the provisions of the Unfair Practices Act, Chapter 4 (commencing with Section 17000), Part 2, Division 7 of the Business and Professions Code.

SEC. 27. Section 6204 of the Government Code is amended to read:

6204. Every peace officer who files any report with the agency which employs him regarding the commission of any crime or any investigation of any crime shall, if he knowingly and intentionally makes any statement in the report which the officer knows to be false, whether or not such statement is certified or otherwise

expressly reported as true, be punished by imprisonment in a county jail for not more than one year. This section shall not apply to the contents of any statement which the peace officer attributes in the report to any other person.

SEC. 28. The heading of Chapter 17.5 (commencing with Section 7300) of Division 7 of Title 1 of the Government Code is amended and renumbered to read:

CHAPTER 17.7. DISPLACED HOMEMAKERS

SEC. 29. Chapter 23 (commencing with Section 7800) of Division 7 of Title 1 of the Government Code is repealed.

SEC. 30. Chapter 20 (commencing with Section 37525) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 20. LETTERS AND CORRESPONDENCE

7525. The letterhead or other prominent location on official stationery of each state agency, and county, city, including, but not limited to, a chartered city, and each school district, municipal corporation, district, political subdivision, and board, commission, and agency thereof, and every other local public agency, used in communication with the public, shall include the telephone number of such entity. The telephone number may be typed or handwritten on the letterhead or other prominent location.

SEC. 31. Section 8701 of the Government Code is amended to read:

8701. The commission consists of 18 members, seven of whom shall be appointed by the Governor. The Lieutenant Governor shall serve as a member of the commission. The Governor shall select a member to serve as chairman of the commission.

Five Senators shall be appointed by the Senate Committee on Rules to membership on the commission. Five Assemblymen shall be appointed by the Speaker of the Assembly to membership on the commission. The members appointed from the Senate and the Assembly shall meet with, and participate in, the work of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature. For the purposes of this chapter, such Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter. Members of the commission shall serve at the pleasure of the appointing power for a period of not more than four years. Members may be reappointed by their appointing power.

SEC. 32. Section 12532.3 of the Government Code is repealed.

SEC. 33. Section 12532.75 of the Government Code is repealed.

SEC. 34. Section 14842 of the Government Code is amended to read:

14842. The department may make all rules and regulations consistent with the law for the purpose of carrying into effect the

provisions of this chapter. Rules and regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of this division.

SEC. 35. Section 20815 of the Government Code is amended to read:

20815. Notwithstanding any other provision of this part, a member employed on a part-time basis shall receive the credit he would receive if he was employed on a full-time basis and have his retirement allowance, as well as any other benefits he is entitled to under this part, based upon the salary that he would have received if employed on a full-time basis if he and his employer both elect to contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. This section shall be applicable only to members who are academic employees of California State University and Colleges or who are certificated employees of school districts and who have met the criteria provided in Section 13337.7 of the Education Code or Section 24215 of the Education Code and are not older than 67 years and is limited to a period of five years of such part-time status. The employer shall maintain the necessary records to separately identify each employee receiving credit pursuant to this section.

SEC. 36. Section 20951 of the Government Code, as added by Chapter 954 of the Statutes of 1975, is amended and renumbered to read:

20951.5. A state miscellaneous member who became such a member by an election pursuant to Section 13948 of the Education Code as added by legislation enacted at the 1975–76 Regular Session of the Legislature, shall be retired for service on his application if he has obtained the minimum age required under this article and is credited with five years of state service or with sufficient service under the State Teachers' Retirement System to meet service requirements for retirement under that system.

SEC. 37. Section 21222.3 of the Government Code is amended to read:

21222.3. In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21222, and notwithstanding the limitation in subdivision (b) of Section 21224, any monthly allowance computed under or limited by Section 21251.1 prior to its repeal by Chapter 266, Statutes of 1972, shall be increased by 15 percent. Such percentage shall be applied to the allowance payable on July 1, 1974, and the allowance as so increased shall be paid for time on and after that date and until the first day of April, 1975. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing on April 1, 1975.

Notwithstanding Sections 20019.1 and 20493 of this code, this section shall not apply to allowances based on service in employment in which the member was a school member or a local miscellaneous member.

The amendments to this section during the 1975–76 Regular Session shall be applicable to allowances paid on and after January 1, 1976 to retired state members who did not receive an increase under this section prior to such amendments solely because their effective date of retirement was on or after July 1, 1971.

SEC. 38. Section 70046 of the Government Code is amended to read:

70046. In 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. 39. Section 74662 of the Government Code is amended to read:

74662. In the San Jose-Milpitas Judicial District there shall be one clerk who shall also act as secretary to the judges and who shall receive a salary as specified in range 57.0. The clerk may appoint:

(a) One chief deputy court clerk who shall receive a salary as specifed in range 52.0.

(b) One administrative assistant—municipal court clerk who shall receive a salary as specified in range 51.5.

(c) Five deputy court clerks, grade IV, each of whom shall receive a salary as specified in range 46.0.

(d) Twenty-four deputy court clerks, grade III, each of whom shall receive a salary as specified in range 45.0.

(e) Forty deputy court clerks, grade II, each of whom shall receive a salary as specified in range 39.0.

(f) Twenty-one deputy court clerks, grade I, each of whom shall receive a salary as specified in range 36.0.

(g) One Spanish-English interpreter who shall receive a salary as specified in range 41.0.

SEC. 40. Section 1275 of the Health and Safety Code, as added by Chapter 142 of the Statutes of 1973, is amended and renumbered to read:

1275.5. (a) The regulations relating to the licensing of hospitals, heretofore adopted by the Department of Public Health pursuant to Chapter 2 (commencing with Section 1400) of Division 2, of this code, and in effect immediately prior to July 1, 1973, shall remain in effect and shall be fully enforceable with respect to any hospital required to be licensed by the provisions of this chapter, unless and until such regulations are readopted, amended, or repealed by the director.

(b) The regulations relating to private institutions receiving or caring for any mentally disordered persons, mentally retarded

persons, and other incompetent persons, heretofore adopted by the Department of Mental Hygiene pursuant to Chapter 1 (commencing with Section 7000) of Division 7 of the Welfare and Institutions Code, and in effect immediately prior to July 1, 1973, shall remain in effect and shall be fully enforceable with respect to any facility, establishment, or institution for the reception and care of mentally disordered persons, mentally retarded persons and other incompetent persons, required to be licensed by the provisions of this chapter unless and until said regulations are readopted, amended, or repealed by the director.

SEC. 41. Section 1373.2 is added to the Health and Safety Code, to read:

1373.2. Every group health care service plan entered into, amended, or renewed on or after January 1, 1976, which provides hospital, medical, or surgical expense benefits for employees or subscribers and their dependents and which contains provisions granting the employee or subscriber the right to convert the coverage in the event of termination of employment or membership, shall include in such conversion provisions the same conversion rights and conditions to a covered dependent spouse of the employee or subscriber in the event the covered dependent spouse ceases to be a qualified family member by reason of termination of marriage.

SEC. 42. Section 1373.4 is added to the Health and Safety Code, to read:

1373.4. No health care service plan which provides maternity benefits for a person covered continuously from conception shall be issued, amended, delivered, or renewed in this state on or after July 1, 1976, if it contains any exclusion, reduction, or other limitations as to coverage, deductibles, or coinsurance provisions as to involuntary complications of pregnancy, unless such provisions apply generally to all benefits paid under the plan. If a fixed amount is specified in such plan for surgery, the fixed amounts for surgical procedures involving involuntary complications of pregnancy shall be commensurate with other fixed amounts payable for procedures of comparable difficulty and severity. In a case where a fixed amount is payable for maternity benefits, involuntary complications of pregnancy shall be deemed an illness and entitled to benefits otherwise provided by the plan. Where the plan contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from normal delivery and cesarean section delivery; however, expenses for cesarean section delivery in excess of the deductible shall be treated as expenses for any other illness under the plan.

Where a plan which provides or arranges direct health care services for its members contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from prenatal care and delivery. However, expenses resulting from any delivery in excess of the deductible amount shall be treated as expenses for any other illness under the plan. If the pregnancy is

interrupted, the maternity deductible charged for prenatal care and delivery shall be based on the value of the medical services received, providing that it is never more than two-thirds of the plan's maternity deductible.

This section shall apply to all health care service plans except any group health service plan made subject to an applicable collective-bargaining agreement in effect before July 1, 1976.

For purposes of this section, involuntary complications of pregnancy shall include, but not be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

All health care service plans subject to this section and issued, amended, delivered, or renewed in this state on or after July 1, 1976, shall be construed to be in compliance with this section, and any provision in any such plan which is in conflict with this section shall be of no force or effect.

SEC. 43. Section 13114 of the Health and Safety Code is amended to read:

13114. (a) The State Fire Marshal, with the advice of the State Board of Fire Services, shall adopt such regulations and standards as he may determine to be necessary to control the quality and installation of automatic sprinkler systems, fire alarm systems, and fire alarm devices marketed, distributed, offered for sale, or sold in this state. In adopting such regulations and standards, the State Fire Marshal shall consider the standards of the National Fire Protection Association.

(b) No person shall market, distribute, offer for sale, or sell any automatic sprinkler system, fire alarm system, or fire alarm device in this state unless such system or device has been approved and listed by the State Fire Marshal.

(c) Violation of this section is a misdemeanor.

SEC. 44. Section 10127 of the Insurance Code, as added by Chapter 679 of the Statutes of 1973, is amended and renumbered to read:

10127.1. Every policy of individual life insurance with a face value of less than ten thousand dollars ($10,000) which is delivered or issued for delivery in this state on and after July 1, 1974, shall have printed thereon or attached thereto a notice stating in substance that, at any time within 10 days after receipt of the policy by the owner, the policy may be returned by the owner for cancellation by delivering it or mailing it to the insurer or to the agent through whom it was purchased. Such delivery or mailing of the policy by the owner shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premium paid and any policy fee paid for the policy shall be refunded to the owner.

This section shall not apply to individual life insurance policies issued in connection with a credit transaction or issued under a contractual policy change or conversion privilege provision

contained in a policy.

SEC. 45. The heading of Article 5.5 (commencing with Section 10508) of Chapter 5 of Part 2 of Division 2 of the Insurance Code is amended and renumbered to read:

Article 7. Records

SEC. 46. Section 11580.07 of the Insurance Code is amended to read:

11580.07. Except when required by a conditional sales vendor, no person or entity who is licensed pursuant to Chapter 5 (commencing with Section 1621) of Part 2 of Division 1 and who holds an appointment by, or transacts insurance with, an insurer which is admitted to issue a policy of automobile liability insurance, as described in Section 16054 of the Vehicle Code, or a motor vehicle liability policy, as described in Section 16450 of the Vehicle Code, or any policy or coverage described in Section 660, shall require any insured to purchase or maintain automobile collision coverage, as defined in Section 660, for the insured motor vehicle as a condition to the issuance or maintenance of comprehensive coverage for such motor vehicle, unless such policy requires the purchase of both such coverages.

This section shall apply only to those policies and coverages issued or renewed on or after the effective date of this section.

As used in this section, "comprehensive coverage" means coverage for loss or damage to the insured motor vehicle resulting from a cause other than collision or upset.

SEC. 47. Section 12120 of the Insurance Code is amended to read:

12120. (a) Subject to the provisions of this chapter, any insurer admitted to transact any class of insurance in this state, other than title insurance, mortgage insurance, or mortgage guaranty insurance, may transact legal insurance if it has a minimum paid-in capital and surplus of not less than one million dollars ($1,000,000), provided that the paid-in capital shall not be less than five hundred thousand dollars ($500,000), notwithstanding the paid-in capital and surplus requirements of Sections 700.01, 700.02, 10510, and 10511, respectively.

(b) Any insurer not admitted to transact any other class of insurance in this state may be admitted to transact legal insurance if it has the paid-in capital and surplus required by subdivision (a).

(c) As used in this section, "surplus" means the excess of admitted assets over the sum of (1) liabilities for losses reported, expenses, taxes, and all other indebtedness and reinsurance of outstanding risks as provided by law, and either (2) paid-in capital, in the case of an insurer issuing or having outstanding shares of capital stock, or (3) minimum paid-in capital required by this section, in the case of any other insurer.

SEC. 48. Section 12405 of the Insurance Code is amended to read:

12405. No title insurer, no controlled escrow company, and no underwritten title company shall make any rebate of any portion of the fee or charge shown by the schedule required by Section 12401.1. No title insurer, no controlled escrow company and no underwritten title company shall quote any fee or make any charge for a title policy to any person which is less than that currently available to others for the same type of title policy in a like amount covering property in the same county and involving the same factors as set forth in its then currently effective schedule of fees and charges. The amount by which any fee or charge is less than that called for by the then currently effective schedule of fees and charges of the title insurer is an unlawful rebate; provided, that nothing contained in this article shall prohibit bulk rates or special rates for customers of prescribed classes if such bulk or special rates are provided for in such schedule.

SEC. 49. Chapter 8 (commencing with Section 1150) of Part 3 of Division 2 of the Labor Code is repealed.

SEC. 50. Chapter 8 (commencing with Section 1130) is added to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 8. PROFESSIONAL STRIKEBREAKERS

Article 1. Findings and Declarations

1130. 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

1132. Unless provided otherwise, the definitions in this article govern the construction of this chapter.

1132.2. "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.

1132.4. "Employee" means any person who performs services for wages or salary under a contract of employment, express or implied, for an employer.

1132.6. "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.

1132.8. "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.

1133. "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

41864 29 1220 88

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

1134. 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.

1134.2. 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

1136. 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.

1136.2. 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. 51. Section 5100.6 of the Labor Code is amended to read:

5100.6. Notwithstanding the provisions of Section 5100, the appeals board shall not permit the commutation or settlement of compensation or indemnity payments or other benefits to which the employee is entitled under rehabilitation.

SEC. 52. Section 830.2 of the Penal Code is amended to read:

830.2. (a) Any member of the California Highway Patrol is a peace officer whose authority extends to any place in the state; provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of the Vehicle Code or of any other law relating to the use or operation of vehicles upon the highways, as that duty is set forth in the Vehicle Code. Provided further, that he shall not act as a peace officer in enforcing any other law except (i) when in pursuit of any offender or suspected offender or (ii) to make arrests for crimes committed in his presence or upon any highway or (iii) as provided in Sections 8597, 8598, and 8617 of the Government Code.

(b) Any member of the California State Police Division is a peace officer; provided, that the primary duty of any such peace officer shall be the protection of state properties and occupants thereof, and he shall not act as a peace officer in enforcing any law except (1) when in pursuit of any offender or suspected offender, (2) to make arrests for crimes committed in his presence or upon state properties, or (3) as provided in Sections 8597, 8598 and 8617 of the Government Code.

(c) Members of the California National Guard have the powers of peace officers when they are (1) called or ordered into active state service by the Governor pursuant to the provisions of Section 143 or 146 of the Military and Veterans Code, (2) serving within the area wherein military assistance is required, and (3) directly assisting civil authorities in any of the situations specified in Section 143 or 146. The authority of any such peace officer extends to the area wherein military assistance is required as to a public offense committed or which there is reasonable cause to believe has been committed within that area. The requirements of Section 1031 of the Government Code are not applicable under such circumstances.

(d) A member of the University of California Police Department appointed pursuant to Section 23501 of the Education Code is a peace officer whose authority extends to any place in the state; provided that the primary duty of any such peace officer shall be the enforcement of the law within the area specified in Section 23501 of the Education Code. Provided, further, that he shall not otherwise act as a peace officer in enforcing the law except (1) when in pursuit of any offender or suspected offender; (2) to make arrests otherwise lawful for crimes committed, or which there is probable cause to believe have been committed, in his presence or within the area specified in Section 23501 of the Education Code; or (3) when, while in uniform such officer, as a peace officer, is requested by a peace officer or other person to render such assistance as is appropriate under such circumstances to the officer or other person making such request, or to act upon his complaint.

Notwithstanding any other provisions of this code, including but not limited to Section 830.3, the provisions of this subdivision shall govern the authority and jurisdiction of a member of the University of California Police Department as a peace officer.

(e) A member of a state university or college police department appointed pursuant to Section 24651 of the Education Code is a peace officer whose authority extends to any place in the state; provided that the primary duty of any such peace officer shall be the enforcement of the law within the area specified in Section 24651 of the Education Code. Provided, further, that he shall not otherwise act as a peace officer in enforcing the law except (1) when in pursuit of any offender or suspected offender; (2) to make arrests otherwise lawful for crimes committed, or which there is probable cause to believe have been committed, in his presence or within the area specified in Section 24651 of the Education Code; or (3) when, while

in uniform such officer, as a peace officer, is requested by a peace officer or other person to render such assistance as is appropriate under such circumstances to the officer or other person making such request, or to act upon his complaint.

Notwithstanding any other provisions of this code, including but not limited to Section 830.3, the provisions of this subdivision shall govern the authority and jurisdiction of a member of a state university or college police department as a peace officer.

SEC. 53. Section 830.4 of the Penal Code is amended to read:

830.4. (a) The following persons are peace officers while engaged in the performance of the duties of their respective employments:

(1) Security officers of the California State Police Division.

(2) The Sergeant at Arms of each house of the Legislature.

(3) Bailiffs of the Supreme Court and of the courts of appeal.

(4) Guards and messengers of the Treasurer's office.

(5) The Director of the Department of Navigation and Ocean Development and employees of such department designated by him pursuant to Section 71.2 of the Harbors and Navigation Code.

(6) Members of a state university or college police department appointed pursuant to Section 24651 of the Education Code.

(7) The hospital administrator of a state hospital under the jurisdiction of the Department of Mental Hygiene or, on or after July 1, 1973, the State Department of Health, and police officers designated by him pursuant to Section 4312 of the Welfare and Institutions Code.

(8) Any railroad or steamboat company policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(9) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(10) Harbor policemen regularly employed and paid as such by a county, city, or district, and the port warden and special officers of the Harbor Department of the City of Los Angeles. However, notwithstanding the provisions of Section 171c, 171d, or 12027, such persons are not peace officers for purposes of such sections except when designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, as peace officers for such purposes.

(11) (A) Special officers of the Department of Airports of the City of Los Angeles commissioned by the city police commission.

(B) Any such officer so commissioned on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any officer so commissioned after July 6, 1973 shall have completed the course of instruction within 60 days after such commissioning. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(12) The chief of toll services, captains, lieutenants, and sergeants employed by the Department of Transportation on vehicular crossings pursuant to Chapter 13 (commencing with Section 23250) of Division 11 of the Vehicle Code.

(13) Persons employed as members of a security patrol of a school district pursuant to Section 15832 of the Education Code.

(14) Duly authorized federal employees, when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction such property is situated.

(15) Security guards of the County of Los Angeles.

(16) (A) Persons regularly employed and designated by the Board of Directors of the Monterey Peninsula Airport District as airport policemen.

(B) Any such person employed on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any person so employed after July 6, 1973, shall have completed the course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(17) Any person regularly employed as an airport security officer by any airport operated by the City and County of San Francisco, Orange County, or the County of San Joaquin if he meets the following requirements:

(A) If employed by the City and County of San Francisco or Orange County on or before July 6, 1973, he shall have completed the course of instruction required by Section 832 by September 1, 1973, or if employed after July 6, 1973, he shall have completed such course of instruction within 60 days after such employment. If employed by the County of San Joaquin on or before September 25, 1973, he shall have completed the course of instruction required by Section 832 by December 1, 1973; or if employed after September 25, 1973, he shall have completed such course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(B) He shall be commissioned as a peace officer by the police

commission or the board of supervisors of the city and county, or county, as the case may be, operating the airport.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(D) In the case of any person regularly employed as an airport security officer by any such airport located in the County of San Mateo, he shall either be deputized by, or have the written consent of, the Sheriff of San Mateo County.

(18) Housing authority patrol officers employed by the City of Los Angeles or by the housing authority of the County of Contra Costa.

(b) 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 with respect to persons or property the protection of which is the immediate duty of such officer.

SEC. 54. Section 830.36 of the Penal Code is amended 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.

SEC. 55. Section 1269b of the Penal Code is amended to read:

1269b. The officer in charge of a jail wherein an arrested person is held in custody, an officer of a sheriff's department or police department of a city who is in charge of a jail or employed at a fixed police or sheriff's facility and is acting under an agreement with the agency which keeps the jail wherein an arrested person is held in custody, an employee of a sheriff's department or police department of a city who is assigned by such department to collect bail, the clerk of the justice or municipal court of the judicial district in which the offense was alleged to have been committed, and the clerk of the superior court in which the case against the defendant is pending shall have authority to approve and accept bail in such amount as fixed by the warrant of arrest or schedule of bail or order admitting to bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order

for the release of the arrested person, and to set a time and place for the appearance of the arrested person before the appropriate court and give notice thereof, as follows:

(a) For appearance before the court of an arrested person who has been arrested for having committed a felony, misdemeanor, or infraction and is being held in custody prior to the filing of a formal complaint, indictment or information, and for appearance before the court of a defendant charged with a felony, misdemeanor or infraction by a formal complaint, indictment or information filed in the court. If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information the bail shall be in the amount fixed by such judge at the time of such appearance; if no such appearance has been made the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to a schedule of bail in such case previously fixed and approved as provided in subdivision (b).

(b) It is the duty of the superior, municipal and justice court judges in each county to prepare and adopt, by a majority vote, at a meeting called by the presiding judge of the superior court of the county, a uniform countywide schedule of bail for all bailable felony offenses. It is the duty of the municipal and justice court judges in each county to prepare and adopt, by a majority vote, at a meeting called by the presiding judge of the municipal court at each county seat, a uniform, countywide schedule of bail for all misdemeanor and infraction offenses. Each schedule shall contain a list of such offenses and the amounts of bail applicable thereto as the judges determine to be appropriate. If the schedules do not list all offenses specifically, they shall contain a general clause for designated amounts of bail as the judges of the county determined to be appropriate for all such offenses not specifically listed in the schedules. The schedules of bail may be revised from time to time by the judges of the county, and one or more meetings of judges for this purpose may be called by the presiding judges of the superior and municipal courts located at each county seat. A copy of the bail schedules shall be sent to the officer in charge of the county jail and to the officer in charge of each city jail within the county and to each superior, municipal and justice court judge and commissioner.

(c) Upon posting such bail the defendant or arrested person shall be discharged from custody as to the offense on which the bail is posted.

All money and surety bonds so deposited with such officer shall be transmitted immediately to the judge or clerk of the court by which the order was made or warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, such judge or clerk of the court shall transmit all such money and surety bonds to the county clerk.

(d) If a defendant or arrested person so released fails to appear at the time and in the court so ordered upon his release from custody, the court before which he was ordered to appear may forfeit the cash

bail or surety bond and if the bail is a surety bond the surety company is obligated as provided by Section 1306 of the Penal Code, subject to the right of the court to set aside the forefeiture as provided by law.

(e) For the appearance before the proper court of a person who has been arrested for an offense on a warrant issued in a county of this state other than the county where such person is held in custody.

SEC. 56. 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 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 impatient treatment shall notify the county mental health director or his designee of inpatient treatment provided to an outpatient under this section.

SEC. 57. Section 4016 of the Penal Code, as added by Chapter 1237 of the Statutes of 1974, is amended and renumbered to read:

4016.5. When an alleged parole violator is detained in a county jail pursuant to an order of the Adult Authority under the authority granted by Section 3060 of the Penal Code, or pursuant to an order of the Governor under the authority granted by Section 3062, or pursuant to a valid exercise of a state parole officer's peace officer powers as specified in Section 830.5 of the Penal Code when such detention relates to violation of the conditions of parole and not a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of Corrections. Such reimbursement shall be expended for maintenance, upkeep, and improvement of jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all

charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withhold all or part of such net reimbursement to a county whose jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 of the Penal Code.

SEC. 58. Section 12093 of the Penal Code is amended to read:

12093. Any person who places or stamps on any pistol or revolver any number except one assigned to it by the Department of Justice is guilty of a misdemeanor. This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when such restoration is authorized by the department, nor prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer's number, or other mark of identification upon a new pistol or revolver.

SEC. 59. Section 205 of the Probate Code is amended to read:

205. (a) Except as provided by Section 951.1, upon the death of a married person, the surviving spouse is personally liable for the debts of the deceased spouse chargeable against the community property by the provisions of Title 8 (commencing with Section 5100) of Part 5 of Division 4 of the Civil Code, unless the interests of both spouses in the community property are administered under Division 3 (commencing with Section 300). The personal liability shall not exceed the value at the date of death, less the amount of any liens and encumbrances, of the interest of the surviving spouse in the community property immediately prior to the death which is not exempt from execution plus the interest of the deceased spouse passing to the surviving spouse without administration.

(b) If proceedings are commenced in this state for the administration of the estate of the deceased spouse and notice to creditors has been given by the personal representative, any action upon the liability of the surviving spouse pursuant to subdivision (a) shall be barred to the same extent as provided for claims under Article 1 (commencing with Section 700) of Chapter 12 of Division 3 except as to the following:

(1) Creditors who had commenced judicial proceedings for the enforcement of the debts and had served the surviving spouse with process prior to the date of the last publication of the notice to creditors.

(2) Creditors who secure the acknowledgment in writing of the liability of the surviving spouse for the debts.

(3) Creditors who file a timely claim in the proceedings.

(c) Except as provided by subdivision (b), any debt described in subdivision (a) may be enforced against the surviving spouse in the same manner as it could have been enforced against the deceased spouse if the deceased spouse had not died. In any action based upon

the debt, the surviving spouse may assert any defenses, counterclaims, or setoffs which would have been available to the deceased spouse if the deceased spouse had not died.

SEC. 60. Section 2203 of the Public Resources Code is amended to read:

2203. The State Geologist shall make an annual report to the director for transmission to the Governor on or before the 15th day of September of each year. Such report shall include a section reviewing the status of measures taken in the state to counter geologic hazards and a section reviewing the economic utilization and conservation of the state's mineral resources and problems related thereto pursuant to Chapter 7.6 (commencing with Section 2650) of this division.

SEC. 61. Section 3752 of the Public Resources Code is amended 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 (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 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 3745 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. 62. Section 6336 of the Public Resources Code is amended to read:

6336. The commission may negotiate with any person or local agency having or claiming an interest in any land affected by boundaries described by the "Preliminary Description of Ungranted

Tideland Boundaries," for the purpose of reaching a boundary agreement. Any such boundary agreement shall be binding on the state and other parties thereto when approved by the commission. Any such boundary agreement shall be recorded in the office of the county recorder of each county in which the land affected thereby, or some portion thereof, is located. The boundary line so established shall be incorporated in, and made a part of, the master map and description to be prepared pursuant to the provisions of Section 6338.

SEC. 63. Section 6873.2 of the Public Resources Code is amended to read:

6873.2. Before offering any tide or submerged land area or beds of navigable rivers or lakes in any area for an oil and gas lease, the commission shall hold a public hearing on the matter within a city or county adjacent to such area and give not less than 60 days' written notice thereof to each adjacent city or county, and to the Department of Parks and Recreation, and shall publish such notice in the manner prescribed in Section 6834. The commission shall propose at such hearing a plan for the control of subsidence and pollution which might occur as a result of the proposed oil and gas operation.

In not less than 30 days after such hearing, the commission shall determine whether or not to offer the land for lease, as provided under Sections 6871.3, 6872, and 6872.1. In such determination, the commission shall consider whether the issuance of a lease as to all or a part of such lands would result in an impairment or interference with the developed riverbank or shoreline recreational or residential areas adjacent to the proposed leased acreage, or whether to offer such land for lease as to all or a part thereof and include in the offer for lease such reasonable rules and regulations which, in the opinion of the commission, are necessary for the exploration, development, and operation of such lease in a manner which will not impair or interfere with such developed riverbank or shoreline recreational or residential areas. However, no tide or submerged lands or beds of navigable rivers or lakes shall be offered for lease under any conditions, rules, or regulations which will result in a discrimination between bidders as prohibited by Section 6874.

The commission in determining whether the issuance of such lease or leases would result in such impairment or interference with the developed riverbank or shoreline recreational or residential areas adjacent to the proposed leased acreage or in determining such rules and regulations as shall be necessary in connection therewith shall at such hearing receive evidence upon and consider whether such proposed lease or leases would

(a) Be detrimental to the health, safety, comfort, convenience, or welfare of persons residing in, owning real property, or working in the neighborhood of such areas;

(b) Interfere with the developed riverbank or shoreline, residential or recreational areas to an extent that would render such areas unfit for recreational or residential uses or unfit for park purposes.

(c) Destroy, impair, or interfere with the esthetic and scenic value of such recreational, residential, or park areas.

(d) Create any fire hazard or hazards or smoke, smog, or dust nuisance, or pollution of waters surrounding or adjoining such areas.

Authority to hold the hearings provided in this section may be delegated by the commission to its officers or employees.

SEC. 64. Section 9178.5 of the Public Resources Code is amended and renumbered to read:

9317. Notwithstanding any other provision of law, a vacancy in the office of a director who has been elected shall be filled pursuant to Section 1780 of the Government Code.

SEC. 65. Section 20 of the Public Utilities Code is amended to read:

20. "Commission" means the Public Utilities Commission created by Section 1 of Article XII of the State Constitution, and "commissioner" means a member of the commission.

SEC. 66. Section 3547 of the Public Utilities Code is amended to read:

3547. The commission shall regulate the leasing of motor vehicles by highway carriers to other highway carriers or to any other persons or corporations.

SEC. 67. Section 16477 of the Public Utilities Code, as added by Chapter 301 of the Statutes of 1973, is amended and renumbered to read:

16478. The Board of Directors of the Tahoe City Public Utility District, the Board of Directors of the South Tahoe Public Utility District, and the Board of Directors of the North Tahoe Public Utility District shall each have the authority to fix and collect an annual standby charge for sewage service on all lands within the district under its jurisdiction, in such amount as the board shall specify, provided that such standby charge for sewage service shall not exceed ten dollars ($10) per acre for parcels in excess of one acre or twenty dollars ($20) per parcel for parcels less than one acre.

The standby charge authorized by this section shall be imposed initially only after a public hearing thereon. In the event that the board of directors proposes to impose such a standby charge, they shall call a public hearing on the proposal and shall give notice thereof as provided in Government Code Section 6062a. Such a charge may be levied in subsequent years without the requirement of a hearing, provided that a hearing shall be required in any year in which the board of directors proposes to alter the rate of such charge.

The Legislature hereby finds and declares that this section, applicable only to the Tahoe City Public Utility District, the South Tahoe Public Utility District, and the North Tahoe Public Utility District is necessary because of the unique and special water management, pollution, and sewage disposal problems of the Lake Tahoe Basin.

SEC. 68. Section 16477 of the Public Utilities Code, as added by Chapter 194 of the Statutes of 1974, is amended and renumbered to read:

16480. (a) Every district furnishing light, heat, or power shall expend no funds for advertising when such advertising encourages increased consumption of such services or commodities.

(b) Nothing in this section shall prohibit a district furnishing light, heat, or power from expending funds for advertising which encourages the more efficient operation of the facilities, works, or utilities of the district, or for advertising which encourages the more efficient use of light, heat, or power, the conservation of energy or natural resources, or presents accurate information on the economical purchase, maintenance, or use of any appliance or device using light, heat, or power.

SEC. 69. Section 99233.6 of the Public Utilities Code is amended 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 (g) 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.

SEC. 70. Section 120107 of the Public Utilities Code is amended to read:

120107. Each member of the board, except alternate members appointed pursuant to Section 120051.5, shall be paid seventy-five

dollars ($75) for each day the member attends meetings of the board, and his necessary and reasonable expenses in performing his duties as a board member.

SEC. 71. Section 283 of the Revenue and Taxation Code is amended to read:

283. Should the audit prescribed by this article indicate that a claim of exemption pursuant to subdivision (o), (p), (q) or (r) of Section 3, Article XIII of the Constitution has been improperly denied, the assessor shall be notified. Upon receipt of such notice the assessor shall make a redetermination and if he finds the claimant eligible he shall notify the claimant in the manner provided in Section 1605 of such erroneous determination, effect an amendment of the assessment roll, and if the claimant has already paid the tax he shall have 30 days from receipt of such notice in which to file claim pursuant to Article 1 (commencing with Section 5096), Chapter 5, Part 9 of this division. The notice shall advise the time in which claim may be filed.

SEC. 72. Section 2189.3 of the Revenue and Taxation Code is amended to read:

2189.3. A tax on personal property belonging to an owner of real property on the secured roll located in the same county as the personal property, where the personal property is not located upon the real property on the lien date, is, on and after the lien date, a lien on the real property, having the force, effect and priority of a judgment lien from and after the lien date, if, on or before the lien date:

(a) The assessor, at the request of the taxpayer, determines and issues to the taxpayer a certificate that the real property is sufficient to secure the payment of the tax.

(b) The taxpayer records the certificate with the county recorder.

Any tax which becomes a lien on the real property in accordance with this section shall be subject to the provisions of this division relating to the rate and date of payment of taxes on the secured roll for the current year; and in the event of any delinquency in the payment of such tax, the personal property on which it has been levied shall be subject to seizure and sale in accordance with Sections 2951 to 2963, inclusive, of this code.

This section does not apply to any tax which became a lien on the first Monday in March of 1958, and shall first be operative with respect to taxes levied for the fiscal year 1959–60.

SEC. 73. Section 2189.5 of the Revenue and Taxation Code is amended to read:

2189.5. Every tax on personal property and improvements, located upon or appurtenant to a leasehold estate for the production of gas, petroleum or other hydrocarbon substances from beneath the surface of the earth, and belonging to the owner of such leasehold estate, may be secured by such leasehold estate, when, in the opinion of the assessor, such leasehold estate is of sufficient value to constitute security for the payment of all taxes upon such personal property or

improvements and upon such leasehold estate. In the event of delinquency in the payment of any such tax, such personal property, improvements and leasehold estate shall be subject to seizure and sale in the same manner as provided for the seizure and sale of unsecured personal property, in Sections 2951 to 2962, inclusive, at any time within three years after the delinquency. Suit may be brought against an assessee of such taxes in the event of delinquency in the payment thereof.

If the tax thereon remains unpaid at the time set for the sale to the state, such tax together with such penalty and costs as may have accrued thereon while on the secured roll shall be transferred to the current unsecured roll.

Those taxes that are delinquent at the time the amendment to this section, enacted at the 1973–74 Regular Session, goes into effect may also be transferred to the current unsecured roll.

SEC. 74. Section 2191.3 of the Revenue and Taxation Code is amended to read:

2191.3. Where there is a tax on:

(a) A possessory interest secured only by a lien on such taxed possessory interest, or on

(b) Goods in transit, not secured by any lien on real property, or on

(c) Improvements that have been assessed pursuant to the provisions of Section 2188.2, or on

(d) Unsecured property not secured by a lien on any real property, and such tax has become delinquent, the tax collector or assessor collecting the tax on such possessory interests, goods in transit, such improvements or unsecured property may file for record without fee in the office of the county recorder of any county a certificate specifying the amount of the respective possessory interest tax, goods in transit tax, such tax on improvements or unsecured property tax due, interest and penalties due, the name and last known address of the assessee liable for the amount, and the fact, if such be the fact, that all provisions of this division in the computation and levy of the tax have been complied with. The procedure authorized by this section is cumulative to the procedure provided by Sections 2951 and 3003.

SEC. 75. Section 2206.5 of the Revenue and Taxation Code is amended to read:

2206.5. "Costs mandated by initiative enactment" means any increased costs mandated upon a local agency after September 2, 1975, by any statute or any amendment to the State Constitution adopted or enacted pursuant to the provisions of Section 22 of Article IV of the State Constitution. "Costs mandated by initiative enactment" does not include costs which are specifically reimbursed or funded by the terms of such initiative enactment.

SEC. 76. Section 2954 of the Revenue and Taxation Code is amended to read:

2954. (a) An assessee may challenge a seizure of property made

pursuant to Section 2953 by petitioning for a writ of prohibition or writ of mandate in the superior court alleging:

(1) That there are no grounds for the seizure;

(2) That the declaration of the tax collector is untrue or inaccurate; and

(3) That there are and will be sufficient funds to pay the taxes prior to the date such taxes become delinquent.

(b) As a condition of maintaining the special proceedings for a writ, the assessee shall file with the tax collector a bond sufficient to pay the taxes and all fees and charges actually incurred by the tax collector as a result of the seizure, or deposit cash in lieu of the bond, and shall furnish proof of said bond or cash deposit with the court. Upon the filing of the bond or cash deposit, the tax collector shall release the property to the assessee.

SEC. 77. Section 3805 of the Revenue and Taxation Code is amended to read:

3805. (a) In addition to the usual provisions of a deed conveying real property, the deed shall specify:

(1) That the real property was duly sold and conveyed to the state for nonpayment of taxes which had been legally levied and were a lien on the property.

(2) The name of the purchaser.

(b) The deed may further specify any condition deemed necessary to effect compliance with the agreement, including but not limited to, a condition that the real property be used by the taxing agency for the public use specified in the agreement.

SEC. 78. Section 4672 of the Revenue and Taxation Code is amended to read:

4672. There shall be distributed to the State of California, to be placed in the General Fund, the following:

One dollar and fifty cents ($1.50) for all or any portion of each separately valued parcel of real property deeded to the state and sold to private parties or to a taxing agency.

If property is deeded to a taxing agency under a pro rata division agreement it shall not be deemed "sold" until resold by the taxing agency to a private party.

The one dollar and fifty cents ($1.50) for property sold shall be paid from the total amount to be distributed. If the total amount is insufficient the one dollar and fifty cents ($1.50) shall be reduced accordingly.

SEC. 79. Section 6363.5 of the Revenue and Taxation Code is amended to read:

6363.5. There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use or other consumption in this state of, meals and food products for human consumption furnished or served by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose in furnishing or serving the meals and food products is to obtain revenue for the functions and activities of the organization

and the revenue obtained from furnishing or serving the meals and food products is actually used in carrying on such functions and activities.

For the purposes of this section, "religious organization" means any organization the property of which is exempt from taxation pursuant to subdivision (f) of Section 3 of Article XIII of the State Constitution.

SEC. 80. Section 186 of the Streets and Highways Code is amended to read:

186. For general administration (but excluding research) and for maintenance, the department and the commission shall be limited in expenditures, out of the money available each year in the State Highway Account in the State Transportation Fund, to an amount not exceeding the net revenue derived from one and one-eighth cents ($0.01125) per gallon tax on motor vehicle fuel under Part 2 (commencing with Section 7301), and on the use of fuel under Part 3 (commencing with Section 8601), of Division 2 of the Revenue and Taxation Code, except that during the 1975–76 fiscal year the limit on such expenditures shall not exceed the revenues derived from one and five-eighths cents ($0.01625) per gallon of such tax. Of that amount, the department shall expend such proportion as the commission determines is necessary for each of the following:

(a) General administration purposes.

(b) Maintenance of all state highways, including all traversable highways between the termini of and approximately on authorized state highway routes.

(c) Maintenance of highways in state parks.

SEC. 81. Section 2804.1 of the Streets and Highways Code is amended to read:

2804.1. The provisions of clause (3) of Section 2804 shall not apply to proceedings for the financing and improvement of streets and easements initiated under a contract entered into, or proposed to be entered into, between a subdivider and a city, city and county, or county pursuant to Section 66462 of the Government Code, unless the subdivider shall submit written evidence satisfactory to the legislative body and the legislative body shall find and determine that the total estimated amount of the proposed assessment will not exceed 75 percent of the estimated fair market value of the land proposed to be assessed after the proposed public improvements shall have been constructed. The finding and determination of the legislative body shall be final and conclusive in the absence of fraud.

SEC. 82. Section 2804.2 of the Streets and Highways Code is amended to read:

2804.2. If the proceedings are for the financing and improvement of streets and easements initiated under a contract entered into, or proposed to be entered into, between a city, city and county, or county pursuant to Section 66462 of the Government Code and lands which will be subject to assessment for the proposed improvement are encumbered or subject to any existing mortgage or deed of trust,

for the purpose of clause (3) of Section 2804, "owners" shall include not only the persons specified in Section 2804 but also any mortgagee or beneficiary under any such existing mortgage or deed of trust. Upon the filing of a petition for any such improvement, the owners, as specified in Section 2804, shall furnish the clerk or secretary of the legislative body with their affidavit, and any additional evidence which the clerk or secretary may require, concerning the existence of all such mortgages or deeds of trust and the names of any mortgagees or beneficiaries thereunder.

SEC. 83. Section 27534 of the Streets and Highways Code is repealed.

SEC. 84. Section 27551 of the Streets and Highways Code is amended to read:

27551. The district may not, prior to December 30, 1975, expend any of its funds to implement the addition of a second deck to the Golden Gate Bridge or any other proposed plan for transit services, other than for its interim system of buses and ferries.

It is the intention of the Legislature that the district's interim system of buses and ferries shall be the system outlined in the district's grant application to the Urban Mass Transportation Administration, dated May 21, 1971, entitled, "Application of the Golden Gate Bridge, Highway and Transporation District for a Mass Transportation Capital Grant under the Urban Mass Transportation Act of 1964, as amended."

The district, however, may expend the necessary funds for planning purposes, and for the acquisition of rights-of-way necessary, regardless of what type of transit system is proposed in the Golden Gate Corridor Transportation Facilities Plan submitted to the Legislature in April, 1971, and in the Golden Gate Corridor Transportation Facilities Plan—Phase II submitted to the Legislature in September, 1975.

SEC. 85. Section 636 of the Unemployment Insurance Code is amended to read:

636. "Employment" does not include services performed in the employ of either a candidate for public office or a committee as defined in Section 82013 of the Government Code, where such services are performed in connection with an election campaign.

SEC. 86. Section 3003 of the Unemployment Insurance Code is amended to read:

3003. (a) Except as provided in Sections 3125, 3125.5, and 3131 and in subdivision (c) of this section, all surplus money in the Disability Fund may be invested solely in securities set forth in subdivision (b) of this section, and all interest or earnings therefrom shall be deposited in the Disability Fund.

(b) Eligible securities for the investment of surplus money shall be:

(1) Bonds or interest-bearing notes or 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.

(2) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(3) Bonds of any county, city, metropolitan water district, municipal utility district, or school district of this state.

(4) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act.

(5) Debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933.

(6) Bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act.

(7) Bonds of any federal home loan bank established under the Federal Home Loan Bank Act.

(8) Stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act.

(9) Bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act.

(c) This section shall not apply during the period of any election under Section 16470 of the Government Code for investment of surplus money in the Disability Fund under the provisions of the Surplus Money Investment Fund.

SEC. 87. Section 9252 of the Vehicle Code is amended to read:

9252. In addition to the registration fee specified in Section 9250 and any weight fee, there shall be paid a service fee of six dollars ($6) for the registration within this state of every vehicle purchased new outside this state or previously registered outside this state. If the vehicle has been registered and operated in this state during the same registration year in which application for registration is made, a fee of three dollars ($3) only shall be paid.

SEC. 88. Section 12650 of the Vehicle Code is amended to read:

12650. (a) Any student over 15 years of age taking a course in automobile driver training, maintained pursuant to Article 14 (commencing with Section 18251) of Chapter 3 of Division 14 of the Education Code, in a secondary school or enrolled in a driver training course offered by a private or parochial school of secondary level may apply to the principal of the school for a student license.

(b) The application shall be signed by the applicant before the principal of the school, or a staff member assigned to such duty. The application shall be accompanied by a statement signed by the parents or guardian or person having custody of the minor, consenting to the issuance of a student license to the student and accepting liability for civil damages arising out of the student driving a motor vehicle upon a highway as provided for in Division 9 (commencing with Section 17000) of this code.

(c) Notwithstanding any other provision of this code, if the person or persons required to sign a statement consenting to the issuance of

a student license and accepting liability as provided in subdivision (b) are not residents of this state and the student resides at the school, or the student is a foster child with no parents or guardian available to sign this statement, the application may be accepted if the principal of the school or staff member assigned such duties certifies that the school has filed with the department a certificate of insurance carrier or surety company that there is in effect a policy or bond meeting the requirements of Section 16056, and that such policy or bond will cover the liability for civil damages arising out of the student driving a motor vehicle upon a highway.

SEC. 89. Section 16500 of the Vehicle Code is amended to read:

16500. Every owner of a vehicle used in the transportation of passengers for hire, including taxicabs, when the operation of the vehicle is not subject to regulation by the Public Utilities Commission, shall maintain, whenever he may be engaged in conducting such operations, ability to respond in damages resulting from the ownership or operation of the vehicle and arising by reason of personal injury to, or death of, any one person, of at least fifteen thousand dollars ($15,000), and, subject to the limit of fifteen thousand dollars ($15,000) for each person injured or killed, of at least thirty thousand dollars ($30,000) for such injury to, or the death of, two or more persons in any one accident, and for damages to property of at least five thousand dollars ($5,000) resulting from any one accident. Ability to respond in damages may be maintained by either:

(a) Being insured under a motor vehicle liability policy against such liability.

(b) Obtaining a bond of the same kind, and containing the same provisions, as those bonds specified in Section 16434.

(c) By depositing with the department thirty-five thousand dollars ($35,000), which amount shall be deposited in a special deposit account with the State Controller for the purpose of this section.

(d) Qualifying as a self-insurer under Section 16053.

The department shall return the deposit to the person entitled thereto when he is no longer required to maintain ability to respond in damages as required by this section or upon his death.

SEC. 90. Section 21055 of the Vehicle Code is amended to read:

21055. The driver of an authorized emergency vehicle is exempt from Chapter 2 (commencing with Section 21350), Chapter 3 (commencing with Section 21650), Chapter 4 (commencing with Section 21800), Chapter 5 (commencing with Section 21950), Chapter 6 (commencing with Section 22100), Chapter 7 (commencing with Section 22348), Chapter 8 (commencing with Section 22450), Chapter 9 (commencing with Section 22500), and Chapter 10 (commencing with Section 22650) of this division under all of the following conditions:

(a) If the vehicle is being driven in response to an emergency call or while engaged in rescue operations or is being used in the

immediate pursuit of an actual or suspected violator of the law or is responding to, but not returning from, a fire alarm, except that fire department vehicles are exempt whether directly responding to an emergency call or operated from one place to another as rendered desirable or necessary by reason of an emergency call and operated to the scene of the emergency or operated from one fire station to another or to some other location by reason of the emergency call.

(b) If the driver of the vehicle sounds a siren as may be reasonably necessary and the vehicle displays a lighted red lamp visible from the front as a warning to other drivers and pedestrians.

A siren shall not be sounded by an authorized emergency vehicle except when required under this section.

SEC. 91. The heading of Article 11 (commencing with Section 28070) of Chapter 5 of Division 12 of the Vehicle Code is amended and renumbered to read:

Article 11.5. Bumpers

SEC. 92. Section 36620 of the Vehicle Code is repealed.

SEC. 93. Section 39012 of the Vehicle Code, as added by Chapter 987 of the Statutes of 1975, is amended and renumbered to read:

39013. The provisions of this division are applicable to motorized bicycles.

SEC. 94. The heading of Chapter 3 (commencing with Section 42270) of Division 18 of the Vehicle Code is amended to read:

CHAPTER 3. MOTOR VEHICLE ACCOUNT

SEC. 95. 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 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code; 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. 96. 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 of the Penal Code does not mean that he may not be committed and treated.

SEC. 97. 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 recommendations.

(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 health 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. 98. Section 10553.1 of the Welfare and Institutions Code is amended to read:

10553.1. The Director of Health shall:

(a) Administer the laws pertaining to the administration of services.

(b) Observe and report to the secretary and the Governor on the condition of services throughout the state.

(c) Formulate, adopt, amend or repeal, in accordance with the provisions of Section 10554.1, regulations and general policies affecting the purposes, responsibilities, and jurisdiction of the State Department of Health and which are consistent with law and necessary for the administration of services.

All regulations heretofore adopted by the Director of Social Welfare relating to services shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Health.

(d) Perform such other duties as may be prescribed by law and such other administrative and executive duties as have by other provisions of law been previously imposed upon the Director of Health.

SEC. 99. Section 10554.1 of the Welfare and Institutions Code is amended to read:

10554.1. The Director of Health is the only person authorized to adopt regulations, orders, or standards of general application to implement, interpret, or make specific the law enforced by the State Department of Health, and such regulations, orders, and standards shall be adopted, amended, or repealed by the director only in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, provided that regulations relating to services need not be printed in the California Administrative Code or California Administrative Register if they are included in the publications of the department and are not promulgated pursuant to Section 16309 or to Section 1530 of the Health and Safety Code. If such regulations are promulgated pursuant to Section 16309 or to Section 1530 of the Health and Safety Code, they shall be printed in the California Administrative Code or California Administrative Register.

In adopting regulations the Director of Health shall strive for clarity of language which may be readily understood by those

administering services or subject to such regulations.

The rules of the State Department of Health need not specify or include the detail of forms, reports or records, but shall include the essential authority by which any person, agency, organization, association or institution subject to the supervision or investigation of the State Department of Health is required to use, submit or maintain such forms, reports or records.

SEC. 100. Section 10605 of the Welfare and Institutions Code is amended to read:

10605. If the director considers a county director to be failing, in a substantial manner, to comply with any provision of this code or any regulation, pertaining to the administration of aid, the director shall put the county director on written notice to that effect, and shall give a copy of the notice to the board of supervisors.

If within 60 days the county director fails to give reasonable assurance that he is complying and will continue to comply with the laws and regulations, the director shall order the county to appear at a hearing, before the director, with the State Benefits and Services Advisory Board, to show cause why the director should not take action to secure compliance. The county shall be given at least 30 days' notice of such hearing. The director shall consider the case on the record established at the hearing, and the advice of the State Benefits and Services Advisory Board, and, within 30 days, shall render proposed findings and a proposed decision on the issues. The proposed findings and decision shall be submitted to the county, and the county shall have an opportunity to appear within 10 days at such time and place as may be fixed by the director, for the purpose of presenting oral arguments respecting the proposed findings and decision. Thereupon the director shall make his final findings and decision.

If the director determines that there is a failure on the part of the county to comply with the provisions of this code or the established regulations, or if the State Personnel Board certifies to the director that a county is not in conformity with established merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that administrative sanctions are necessary to secure compliance, the director may invoke any of the following sanctions:

(a) Withhold part or all of state and federal funds from such county until the county shall make a showing to the director of compliance; or

(b) Assume, temporarily, direct responsibility for the administration of any or all state-assisted aid programs in such county until the county shall provide reasonable assurance to the director of its intention and ability to comply with such laws and regulations. During such period of state administrative responsibility for county programs, the director or his authorized representative shall have all of the powers and responsibilities of the county director, with the exception that he shall not be subject to the authority of the board

of supervisors; or

(c) Bring an action in mandamus or such other action in court as may be appropriate to compel compliance. Any such action shall be entitled to a preference in setting a date for a hearing.

Nothing in this section shall be construed as relieving the board of supervisors of the responsibility to provide funds necessary for the continued aid required by law.

Nothing contained in this section shall be construed as preventing a county from seeking judicial review of action taken by the director pursuant to this section under Section 1094.5 of the Code of Civil Procedure or, except in cases arising under Sections 10962 and 10963, from seeking injunctive relief when deemed appropriate.

SEC. 101. Section 10605.1 of the Welfare and Institutions Code is amended to read:

10605.1. If the Director of Health considers a county director to be failing, in a substantial manner, to comply with any provision of this code or any regulation pertaining to the administration of services, he shall put the county director on written notice to that effect, and shall give a copy of the notice to the board of supervisors.

If within 60 days the county director fails to give reasonable assurance that he is complying and will continue to comply with the laws and regulations, the Director of Health shall order the county to appear at a hearing, before him to show cause why he should not take action to secure compliance. The county shall be given at least 30 days notice of such hearing. The Director of Health shall consider the case on the record established at the hearing and, within 30 days, shall render proposed findings and a proposed decision on the issues. The proposed findings and decisions shall be submitted to the county, and the county shall have an opportunity to appear within 10 days at such time and place as may be fixed by the Director of Health for the purpose of presenting oral arguments respecting the proposed findings and decision. Thereupon the Director of Health shall make his final findings and decision.

If the Director of Health determines that there is a failure on the part of the county to comply with the provisions of this code or the established regulations, or if the State Personnel Board certifies to the Director of Health that a county is not in conformity with established merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that administrative sanctions are necessary to secure compliance, the Director of Health may invoke any of the following sanctions:

(a) Withhold part or all of state and federal funds from such county until the county shall make a showing to the Director of Health of compliance; or

(b) Assume, temporarily, direct responsibility for the administration of any or all state-aided service programs in such county until the county shall provide reasonable assurance to the Director of Health of its intention and ability to comply with such

laws and regulations. During such period of state administrative responsibility for county programs, the Director of Health or his authorized representative shall have all of the powers and responsibilities of the county director, with the exception that he shall not be subject to the authority of the board of supervisors; or

(c) Bring an action in mandamus or such other action in court as may be appropriate to compel compliance. Any such action shall be entitled to a preference in setting a date for a hearing.

Nothing in this section shall be construed as relieving the board of supervisors of the responsibility to provide funds necessary for the continued services required by law.

Nothing contained in this section shall be construed as preventing a county from seeking judicial review of action taken by the Director of Health pursuant to this section under Section 1094.5 of the Code of Civil Procedure or, except in cases arising under Sections 10962 and 10963, from seeking injunctive relief when deemed appropriate.

SEC. 102. Section 10609.1 of the Welfare and Institutions Code is amended to read:

10609.1. The State Department of Health may act as the agent or representative of or cooperate with the federal government in any matters within the scope of the functions of the State Department of Health under this division, for the administration of federal funds granted to this state or for any other purpose in furtherance of those functions.

The State Department of Health may cooperate with the federal government, its agencies or instrumentalities, in establishing, extending, and strengthening services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, and may receive and expend all funds made available for such purposes by the federal government to the Director of Health, the state, a county, a district, a municipal corporation, or a political subdivision.

Any contract or agreement entered into by the State Department of Health with the federal government or any agency thereof for the expenditure of any funds in the exercise of any power granted to the State Department of Health by this section shall be subject to approval by the State Department of Finance.

SEC. 103. Section 11006.9 of the Welfare and Institutions Code is amended to read:

11006.9. It is a cause for revocation of a permit or license by the State Department of Health for any person, association, or corporation that maintains, conducts, or, as manager or officer or in any other administrative capacity, assists in maintaining or conducting any skilled nursing facility or intermediate care facility or nonmedical board and care facility to obtain, as an additional cost of care, aid allocated to a recipient for his personal or incidental needs or to obtain and fail to deliver such aid allocation to the recipient. The State Department of Health shall initiate license or permit revocation proceedings.

SEC. 104. Article 1.5 (commencing with Section 11025) of Chapter 1 of Part 3 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 105. 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 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 when annual financial statements are to be submitted to the department. 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. 106. Section 4.5 of Chapter 805 of the Statutes of 1969 is repealed.

SEC. 107. Section 2 of Chapter 1258 of the Statutes of 1974 is amended to read:

Sec. 2. In implementing the provisions of Section 16120.1, the department shall require full compliance with regulations promulgated with regard to Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9 of the Welfare and Institutions Code. Such regulations shall preclude utilization of programs under such chapter by families not in need of assistance.

SEC. 108. Section 5 of Chapter 1233 of the Statutes of 1975 is amended to read:

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.

SEC. 109. Any section of any act enacted by the Legislature during the 1976 portion of the 1975–76 Regular Session, which takes effect on or before January 1, 1977, and which amends, amends and renumbers, or repeals a section amended, amended and renumbered, or repealed by this act, shall prevail over this act, whether such act is enacted prior or subsequent to this act.

CHAPTER 1080

An act to amend Section 83114 of, and to add Section 83115.5 to, the Government Code, relating to the Fair Political Practices Commission.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 83114 of the Government Code is amended to read:

83114. (a) Any person may request the commission to issue an opinion with respect to his duties under this title. The commission shall, within 14 days, either issue the opinion or advise the person who made the request whether an opinion will be issued. No person who acts in good faith on an opinion issued to him by the commission shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The commission's opinions shall be public records and may from time to time be published.

(b) Any person may request the commission to provide written advice with respect to the person's duties under this title. Such advice shall be provided within 21 working days of the request, provided that the time may be extended for good cause. It shall be a complete defense in any enforcement proceeding initiated by the commission, and evidence of good faith conduct in any other civil or criminal proceeding, if the requester, at least 21 working days prior to the alleged violation, requested written advice from the commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice or because of the failure of the commission to provide advice within 21 days of the request or such later extended time.

SEC. 2. Section 83115.5 is added to the Government Code, to read:

83115.5. No finding of probable cause to believe this title has been violated shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of his right to be present in person and represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the commission a written request that the proceeding be public.

SEC. 3. The Legislature hereby finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000), Government Code).

CHAPTER 1081

An act to amend the heading of Article 8 (commencing with Section 25210.80) of Chapter 2.2 of Part 2 of Division 2 of Title 3 and Section 66436 of, and to add Sections 25210.81, 25210.82, 25210.83, 25210.84, 25210.85, 25210.86, and 53072 to, the Government Code, relating to local agencies.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. The heading of Article 8 (commencing with Section 25210.80) of Chapter 2.2 of Part 2 of Division 2 of Title 3 of the Government Code is amended to read:

Article 8. Annexations

SEC. 2. Section 25210.81 is added to the Government Code, to read:

25210.81. Territory already a part of a county service area may be annexed to an improvement area of that county service area established pursuant to Article 10 (commencing with Section 25211.1) of this chapter under the procedure set forth in this section and Sections 25210.82 to 25210.86, inclusive. Whenever territory is so annexed to an improvement area of a county service area, the annexed territory shall be subject to all the liabilities and entitled to

4 1897 29 2 125 197

all the benefits of the improvement area.

SEC. 3. Section 25210.82 is added to the Government Code, to read:

25210.82. The board shall adopt a resolution initiating proceedings for annexation pursuant to Section 25210.81, which resolution shall do all the following:

(a) Set forth the exterior boundaries of the territory proposed for annexation.

(b) State that the territory will be benefited by annexation to the improvement area.

(c) Fix a time, date, and place of hearing on the proposed annexation, which shall be not less than 15 days nor more than 60 days after the date of adoption of the resolution initiating proceedings.

(d) State that any interested person desiring to make written protest against such annexation shall do so by written communication, containing the signature of the protestant and street address or some other identification of the property owned by the protestant, filed with the clerk not later than the hour set for hearing.

SEC. 4. Section 25210.83 is added to the Government Code, to read:

25210.83. The clerk shall give notice of the hearing by mailing a copy of such notice to all landowners owning land within the territory proposed to be annexed, and by publishing notice thereof in at least one issue, not more than 30 nor less than 10 days prior to the hearing, in a newspaper of general circulation.

SEC. 5. Section 25210.84 is added to the Government Code, to read:

25210.84. A majority protest shall be deemed to exist, and the proposed annexation shall be abandoned, if the board finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent more than 50 percent of the assessed value of the land therein.

SEC. 6. Section 25210.85 is added to the Government Code, to read:

25210.85. At the hearing, all interested persons shall be given the opportunity to present evidence and testimony for or against the proposed annexation. Any person who has filed a written protest may withdraw the written protest at any time prior to the conclusion of the hearing.

If a majority protest has not been filed, the board, not later than 30 days after the conclusion of the hearing, shall adopt a resolution making one of the following determinations:

(a) Disapproving the proposed annexation.

(b) Approving the proposed annexation.

(c) Approving the annexation, but excluding any lands which the board finds will not be benefited by becoming a part of such improvement area.

SEC. 7. Section 25210.86 is added to the Government Code, to read:

25210.86. If the board approves the proposed annexation, or approves the annexation but excludes any lands, a certified copy of the resolution of the board, together with a map or plat of the new boundaries of the improvement area, shall be filed with the agencies designated in and as required by Sections 54900, 54901, and 54902. Upon such filing, the annexation of the territory to the improvement area shall be effective.

SEC. 8. Section 53072 is added to the Government Code, to read:

53072. Whenever a special district as defined in Section 54775 is formed, the district shall reimburse the county in which all or a portion of the district is located for the expenses incurred by the county for calling and conducting the election establishing such district.

SEC. 9. Section 66436 of the Government Code is amended to read:

66436. A certificate, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the final map is required, except as follows:

(a) Neither a lien for state, county, municipal or local taxes, nor for special assessments, nor a trust interest under bond indentures, nor mechanics' liens constitute a record title interest in land for the purpose of this chapter or local ordinance.

(b) The signature of either the holder of beneficial interests under trust deeds or the trustee under such trust deeds, but not both, may be omitted. The signature of either shall constitute a full and complete subordination of the lien of the deed of trust to the map and any interest created by the map.

(c) Signatures of parties owning the following types of interests may be omitted if their names and the nature of their respective interests are stated on the final map:

(1) Rights-of-way, easements or other interests which cannot ripen into a fee, except those owned by a public entity or public utility. If, however, the legislative body determines that division and development of the property in the manner set forth on the final map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement, the signature of such public entity or public utility may be omitted. Where such determination is made, the subdivider shall send, by certified mail, a sketch of the proposed final map, together with a copy of this section, to any public entity or public utility which has previously acquired a right-of-way or easement.

If the public entity or utility objects to either (i) recording the final map without its signature; or (ii) the determination of the legislative body that the division and development of the property will not unreasonably interfere with the full and complete exercise of right-of-way or easement, it shall so notify the subdivider and the legislative body within 30 days after receipt of the materials from the subdivider.

If the public entity or utility objects to recording the final map without its signature, the public entity or utility so objecting may affix its signature to the final map within 30 days of filing its objection with the legislative body.

If the public entity or utility either (i) does not file an objection with the legislative body; or (ii) fails to affix its signature within 30 days of filing its objection, to recording the map without its signature, the local agency may record the final map without such signature.

If the public entity or utility files an objection to the determination of the legislative body that the division and development of the property will not unreasonably interfere with the exercise of its right-of-way or easement, the legislative body shall set the matter for public hearing to be held not less than 10 nor more than 30 days of receipt of the objection. At such hearing, the public entity or public utility shall present evidence in support of its position that the division and development of the property will unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement.

If the legislative body finds, following such hearing, that the development and division will in fact unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement, it shall set forth those conditions whereby such unreasonable interference will be eliminated and upon compliance with such conditions by the subdivider, the final map may be recorded with or without the signature of the objector. If the legislative body finds that the development and division will in fact not unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement, the final map may be recorded without the signature of the objector, notwithstanding its objections thereto.

Failure of the public entity or public utility to file an objection pursuant to this section shall in no way affect its rights under a right-of-way or easement.

(2) Rights-of-way, easements or reversions, which by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value and signatures are impossible or impractical to obtain. A statement of the circumstances preventing the procurement of the signatures shall also be stated on the map.

(3) Interests in or rights to minerals, including but not limited to oil, gas or other hydrocarbon substances.

(d) Real property originally patented by the United States or by the State of California, which original patent reserved interest to either or both of such entities, may be included in the final map without the consent of the United States or the State of California thereto or to dedications made thereon.

SEC. 10. 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 new duties, obligations or

responsibilities imposed on local government by this act.

CHAPTER 1082

An act to amend Section 40303 of the Vehicle Code, relating to arrests.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 40303 of the Vehicle Code is amended to read:

40303. Whenever any person is arrested for any of the following offenses and the arresting officer is not required to take the person without unnecessary delay before a magistrate, the arrested person shall, in the judgment of the arresting officer, either be given a 10 days' notice to appear as herein provided or be taken without unnecessary delay before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made.

(a) Section 10852 or 10853, relating to injuring or tampering with a vehicle.

(b) Section 23103 or 23104, relating to reckless driving.

(c) Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to an inspection or test of the lights upon the vehicle under Section 2804 hereof, which is punishable as a misdemeanor.

(d) Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to a brake test which is punishable as a misdemeanor.

(e) Section 2800, relating to the refusal to submit vehicle and load to an inspection, measurement, or weighing as prescribed in Section 2802 or a refusal to adjust the load or obtain a permit as prescribed in Section 2803.

(f) Section 20002, relating to failure to stop in the event of an accident involving damage to property.

(g) Section 23109, relating to participating in speed contests or exhibition of speed.

(h) Sections 14601 and 14601.1, relating to driving while license is suspended or revoked.

(i) When the person arrested has attempted to evade arrest.

(j) Section 23332, relating to persons upon vehicular crossings.

(k) Section 2813, relating to the refusal to stop and submit a vehicle to an inspection of its size, weight, and equipment.

(*l*) Section 21461.5, as it relates to a pedestrian who, after being

cited for a violation of Section 21461.5, is, within 24 hours, again found upon the freeway in violation of Section 21461.5 and thereafter refuses to leave the freeway after being lawfully ordered to do so, by a peace officer, and having been informed that his failure to leave could result in his arrest.

(m) Section 2800, as it relates to a pedestrian who, after having been cited for a violation of Section 2800 for failure to obey a lawful order of a peace officer issued pursuant to Section 21962, is within 24 hours again found upon the bridge or overpass and thereafter refuses to leave after being lawfully ordered to do so by a peace officer and after having been informed that his failure to leave could result in his arrest.

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 new duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 1083

An act to add Section 382.4 to the Penal Code, relating to drugs.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 382.4 is added to the Penal Code, to read:

382.4. No person, other than a licensed veterinarian, shall administer succinylcholine, also known as sucostrin, to any dog or cat.

Violation of this section shall constitute a misdemeanor.

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 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 and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1084

An act to add Section 1720.3 to the Labor Code, relating to public works.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 1720.3 is added to the Labor Code, to read:

1720.3. For the limited purposes of Article 2 (commencing with Section 1770), "public works" also means the hauling of refuse from a public works site to an outside disposal location, with respect to contracts involving any state agency, including the California State University and Colleges and the University of California.

SEC. 2. 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 1085

An act to add Section 31704 to the Water Code, relating to community redevelopment.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 31704 is added to the Water Code, to read:

31704. Taxes levied by the Coachella Valley County Water District for payment of the principal of, or interest on bonded indebtedness, where the proceeds of such bonds were used for the construction and installation of sewer facilities to provide sewer service to an area, including either wholly or in part a community redevelopment project area, shall not be apportioned as authorized by subdivision (b) of Section 33670 of the Health and Safety Code, but shall be allocated solely to the Coachella Valley County Water District.

SEC. 2. This section, applicable only to the Coachella Valley County Water District, is necessary because of the special and unique problems of debt service taxation for sewer facilities within such district in relation to tax apportionment within community redevelopment project areas within such district.

CHAPTER 1086

An act to amend Section 23428.20 of the Business and Professions Code, relating to alcoholic beverages, and making an appropriation therefor.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 23428.20 of the Business and Professions Code is amended to read:

23428.20. (a) For the purposes of this article "club" also means any bona fide nonprofit corporation which has been in existence for not less than nine years, which has more than 8,500 memberships issued and outstanding to owners of condominiums and owners of memberships in stock cooperatives, and which owns, leases, operates or maintains recreational facilities for its members.

(b) For the purposes of this article, "club" also means any bona fide nonprofit corporation which was formed as a condominium homeowners' association, has at least 250 members, has served daily meals to its members and guests for a period of not less than 12 years, owns or leases, operates, and maintains a clubroom or rooms for its membership, has an annual fee of not less than nine hundred dollars ($900) per year per member, and has as a condition of membership that one member of each household be at least 54 years old.

(c) The provisions of Section 23399 and the numerical limitation of Section 23430 shall not apply to a club defined in this section.

(d) No license shall be issued pursuant to this section to any club which withholds membership or denies facilities or services to any person on account of race, color, creed, religion, national origin, or sex.

CHAPTER 1087

An act to repeal and add Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code, and to amend Section 770 of the Public Utilities Code, relating to water.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code is repealed.

SEC. 2. Chapter 7 (commencing with Section 4010) is added to Part 1 of Division 5 of the Health and Safety Code, to read:

CHAPTER 7. WATER AND WATER SYSTEMS

Article 1. Permits

4010. The Legislature finds and declares that the water delivered by public water systems of this state be at all times pure, wholesome,

and potable and that the provisions of this chapter provide the means to accomplish this objective.

4010.1. As used in this chapter:

(a) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(b) "Drinking water standards" means:

(1) Primary drinking water standards that specify maximum levels of contaminants which, in the judgment of the director, may have an adverse effect on the health of persons.

(2) Secondary drinking water standards that specify maximum contaminant levels which, in the judgment of the director, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water which may adversely affect the odor or appearance of such water and may cause a substantial number of persons served by the public water system to discontinue its use, or which may otherwise adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water which adversely affects the taste, odor, or appearance of such water when the standards are necessary to assure a supply of pure, wholesome, and potable water.

(c) "Maximum contaminant level" means the maximum permissible level of a contaminant in water.

(d) "Person" means an individual, corporation, company, association, partnership, municipality, public utility, or other public body or institution.

(e) "Public water system" means a system for the provision of piped water to the public for human consumption which has five or more service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

(1) Any collection, treatment, storage, and distribution facilities under control of the operator of such system which are used primarily in connection with such system.

(2) Any collection or pretreatment storage facilities not under the control of the operator which are used primarily in connection with such system.

(f) "Significant rise in the bacterial count of water" means such rise in the bacterial count of water as the department determines, by regulation, represents an immediate danger to the health of water users.

(g) "User" means any person using water for domestic purposes. User does not include any person processing, selling, or serving water or operating a public water system.

(h) "Waterworks standards" means regulations adopted by the department which take cognizance of the latest available "Standards of Minimum Requirements for Safe Practice in the Production and Delivery of Water for Domestic Use" adopted by the California section of the American Water Works Association.

4010.2. This chapter shall not apply to a public water system which meets all of the following conditions:

(a) Consists only of distribution and storage facilities and does not have any collection and treatment facilities.

(b) Obtains all of its water from, but is not owned or operated by, a public water system to which this chapter applies.

(c) Does not sell water to any person or user.

4010.3. This chapter shall not apply to an irrigation canal system if the owner or operator of such system certifies to the department, and notifies each user, in writing, that such water is untreated and is being furnished or supplied solely for agricultural purposes to either of the following:

(a) A user where the user receives the water, by pipe or otherwise, directly from such irrigation canal system.

(b) A person who owns or operates an integrated pipe system where such person receives the water, by pipe or otherwise, directly from such irrigation canal system.

"Irrigation canal system," as used in this section, means a system of water conveyance facilities, including pipes, tunnels, canals, conduits, pumping plants and related facilities operated to furnish or supply water for agricultural purposes where a substantial portion of such facilities is open to the atmosphere.

4010.4. In areas where the water service rendered by a person is primarily agricultural, and domestic service is only incidental thereto, the provisions of this chapter shall not apply except in specific areas in which the department has found its application to be necessary for the protection of the public health and has given written notice thereof to the person furnishing or supplying water in such area.

The department may prescribe reasonable and feasible action to be taken by such persons or the users to insure that their domestic water will not be injurious to health.

4011. No person shall operate a public water system unless he first files a petition for permission to do so with the department and receives a permit as provided in this chapter. Any person who holds a permit or amended permit to furnish or supply water to a user for domestic purpose under the provisions of Chapter 7 (commencing with Section 4010) as they existed prior to enactment of this chapter, shall be deemed to have been issued a permit in compliance with this chapter. Any actions with respect to such permits or amended permits taken after enactment of this chapter shall be governed by the provisions of this chapter.

The department may for good cause grant a temporary permit to any person who has filed a petition for a permit as provided in this

chapter, upon such terms as it shall determine are in the public interest. The temporary permit shall terminate upon the date specified therein.

4012. With a petition for a permit shall be filed a complete set of plans and specifications, together with a statement containing a general description and history of the existing or proposed plant, works, or system or proposed changes therein, and showing the geographical location thereof with relation to the source of the water supply and all the sanitary and health conditions surrounding and affecting such supply and the plant, works or system.

The plans, specifications, and statement shall be in such form and cover such matters as the department prescribes.

4013. Upon receipt of a petition filed pursuant to this chapter, the department shall make a thorough investigation of the proposed or existing plant, works, system, or water supply, and all other circumstances and conditions which it deems material.

4014. As a part of the investigation, and after 10 days' notice by mail to the petitioner, a hearing may be had before the department or an examiner appointed by it. At the hearing all testimony shall be given under oath, and evidence, oral and documentary, may be received, a record of which shall be made and filed with the department. Notice of any such hearing shall be given to the public by the petitioner in form prescribed by the department.

4015. If, upon the completion of the investigation, the department determines that the water furnished or supplied, or proposed to be supplied, is such that under all the circumstances and conditions it is not pure, wholesome, and potable or may constitute a menace or danger to the health or lives of human beings, or that the existing or proposed plant, works, system or water supply, or proposed modifications, are unhealthful or insanitary, or not suited to the production and delivery of pure, wholesome, and potable water at all times for health and normal household use, it shall deny the petition and order the petitioner to make such changes as it deems necessary to secure a continuous and adequate supply of pure, wholesome, healthful, and potable water.

4016. If the department determines that the system will not be subject to backsyphonage under normal operating conditions and that the water to be furnished or supplied is such that under all the circumstances and conditions it is pure, wholesome, and potable and will not endanger the lives or health of human beings, it shall grant a permit authorizing the petitioner to furnish or continue to furnish or supply water. The department or any local health officer may issue a permit for any public water system supplying fewer than 200 service connections.

4017. The department may order such repairs, alterations, or additions to the existing plant, works, or system or installation of purification and treatment works, or may order such changes in the source of the water supply, or any other measure necessary to insure that the system will not be subject to backsyphonage under normal

operating conditions and that the water furnished or supplied shall at all times be pure, wholesome, and potable and without danger to the lives or health of human beings.

4018. Any order requiring repairs, alterations, additions or changes shall designate the period within which the order is to be performed.

A temporary permit may be issued by the department for the period fixed to permit the petitioner to comply with the order.

4019. No person operating a public water system shall modify, add to or change his source of supply or method of treatment of, or change his distribution system for, water for domestic purposes as authorized by a valid existing permit issued to him by the department unless the person first files a petition to do so with the department and receives an amended permit as provided in this chapter authorizing such modification, addition or change in his source of supply or method of treatment or in his distribution system as may be specified in such amended permit. Changes in distribution systems may be made without permit review if such changes comply in all particulars with the waterworks standards. Petitions for amended permits shall be made in accordance with the provisions of this chapter for the making of a petition for a permit and shall be investigated, considered, determined and issued or denied upon the same terms and conditions as provided for the issuance or denial of a permit as provided in this chapter.

4020. Any permit issued, including a temporary permit, may be revoked or suspended by the department at any time after hearing noticed and conducted as provided in Section 4014 for permit investigation, if the department determines that the water being supplied or furnished by the permittee is or may become impure, unwholesome, or unpotable or endangers or may endanger the lives or health of human beings, or if the department determines that requirements or conditions of the permit are not being met.

4021. (a) The department may grant one or more variances from drinking water standards, treatment techniques, or requirements to a public water system which, because of characteristics of the raw water sources which are reasonably available to the system, cannot meet the requirements respecting the maximum contaminant levels of such drinking water, despite application of the best technology, treatment techniques, or other means which the department finds are generally available, taking costs into consideration. Before the department may grant a variance under this section, the department shall find that the variance will not result in an unreasonable risk to the health of users.

(b) If the department grants a variance under this section, the supplier shall present a schedule acceptable to the department for the accomplishment, within one year of the date the variance is granted, of:

(1) Compliance with each contaminant level requirement with respect to which the variance was granted.

(2) Implementation of such interim control measures as the department may require for each contaminant subject to the variance during the period ending with the date full compliance is required.

(c) The department may grant an exemption from any requirement respecting a maximum contaminant level or any treatment technique upon a finding that the public water system meets all of the following conditions:

(1) The system was in operation on the effective date of this chapter.

(2) The public water system is unable to comply with such contaminant level or treatment technique requirements due to compelling factors, which may include economic factors.

(3) The grant of the exemption will not result in an unreasonable risk to health.

If the department grants an exemption under this section, the department shall prescribe a schedule as set forth in subdivision (b) which shall be subject to the same terms and conditions.

(d) Any schedule prescribed under this section shall require compliance with the drinking water standards with respect to each contaminant as expeditiously as the department may determine reasonable. Issuance of the variance or exemption shall be conditioned upon compliance with the schedule.

(e) Before any schedule prescribed under this section may take effect, the department shall provide an opportunity for a public hearing on the schedule. Notice of such public hearing shall be given by the department in writing to the operator of the public water system seeking the variance or exemption and to the public as provided in Section 6061 of the Government Code in a form prescribed by the department.

(f) No exemption and no schedule prescribed in connection with this chapter may continue for more than seven years.

4022. Where a public water system operating under a variance or exemption fails to comply with the schedule prescribed by the department, the department may revoke the variance or exemption in the same manner as provided in Section 4020 for permit revocation.

Article 2. Regulations

4023. The department may, by order, require the holder of a permit to furnish to the department a complete report on the condition and operation of the plant, works, system, or water supply owned, operated, or controlled by him. Upon a finding by the department that a public water system does not meet the secondary drinking water standards and may cause a substantial number of persons served by the public water system to discontinue its use, the department may order the supplier to conduct a study of the causes, methods of correction, and the estimated cost of one or more

alternative solutions. The results of such study shall be made available to the users, the department, and, where appropriate, to the Public Utilities Commission. These reports shall be made by some competent person, under oath, at the sole cost and expense of the holder of the permit.

4023.5. Secondary drinking water standards, adopted by the department and applied to public water systems under the jurisdiction of the Public Utilities Commission, shall be enforced and noticed in the same manner as primary drinking water standards.

4024. Any person operating a public water system shall obtain and provide at such person's expense an analysis of such water to the department, in such form, covering such matters, and at such intervals as the department by regulation prescribes. The analysis shall be performed by a laboratory duly certified by the department.

4025. No laboratory in this state, other than a laboratory operated by the department, shall perform the tests required pursuant to this chapter for any public water system without first obtaining a certificate issued by the department that such laboratory is competent and equipped to conduct such tests. Certificates shall be renewed every three years after the date of issuance. The department may revoke any certificate issued hereunder upon its determination that the laboratory is no longer competent or equipped to conduct water tests.

4026. The department shall formulate and adopt such rules and regulations covering parameters to be tested and their limits, type of testing, frequency of testing, and such other matters as may be necessary to determine the quality of domestic water supplies, and to establish schedules for compliance with water quality standards.

The regulations and standards adopted by the department shall in no case be less stringent than those set by the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act (PL 93-523); provided that exemptions and variances may be granted in accordance with the provisions of this chapter and as permitted by the Safe Drinking Water Act (PL 93-523).

4027. The department shall establish a water quality advisory council which shall assist in the formulation of regulations, policies, and programs with respect to any matter covered by this chapter, including standards for determining the quality of domestic water supplies and criteria for determining the quality of domestic water supplies and critera for determining the various classifications of cease-and-desist orders and the penalties for violation of such orders.

The advisory council shall be composed of not less than 10 members and shall be comprised of an equal number of persons representing the water utility industry and consumers. The department shall consider recommendations from the California section of the American Water Works Association and the Association of California Water Agencies prior to making appointments of the water utility industry representatives. The department shall also consider recommendations from the

Department of Consumer Affairs prior to making appointments of the consumer representatives.

4028. (a) When any primary drinking water standard specified in the department's regulations is not complied with, when a monitoring requirement specified in the department's regulations is not performed, or when a water purveyor fails to comply with the conditions of any variance or exemption, the person operating the public water system shall notify the department and shall give notice to the users of such fact in the manner prescribed by the department. When a variance or exemption is granted, the person operating the public water system shall give notice to the users of such fact.

(b) When a person operating a public water system determines that a significant rise in the bacterial count of water has occurred in water he supplies, the person shall provide, at his expense, a report on the rise in bacterial count of the water, together with the results of an analysis of such water within 24 hours to the department and, where appropriate, the county health officer. where appropriate, the county health officer.

(c) When the department receives the information described in subdivision (b) and determines that it constitutes an immediate danger to health, the department shall immediately notify the person operating the public water system to implement the emergency notification plan required by this chapter.

(d) In the case of a failure to comply with any primary drinking water standard which represents an imminent danger to the health of water users the operator shall notify each of his customers as provided in his approved emergency notification plan.

(e) The content of notices required by this section shall be approved by the department. Notice shall be repeated at intervals as required by the department until the department concludes that there is compliance with its standards or requirements. Notices may be given by the department.

4029. No person shall operate a public water system without an emergency notification plan which has been submitted to and approved by the department. Such emergency notification plan shall provide for immediate notice to the customers of the public water system of any significant rise in the bacterial count of water or other failure to comply with any primary drinking water standard which represents an imminent danger to the health of the water users.

No permit, variance or exemption may be issued or amended under this chapter until an emergency notification plan has been approved by the department.

The department shall adopt rules and regulations to implement the provisions of this section. Such rules and regulations may provide for the exclusion of public water systems from the requirements of this section when, in the judgment of the department, such exclusion will best serve the public interest.

4029.5. Any public water system under the jurisdiction of the Public Utilities Commission may be required to install and operate

additional facilities if upon the conclusion of a public hearing the director of the department determines that such facilities are necessary to provide the users of the water system a continuous and adequate supply of water or to bring a water system into conformity with secondary drinking water standards.

4030. The department may at any and all reasonable times enter any and all places, property, enclosures, and structures for the purpose of making examinations and investigations to determine whether any provision of this chapter is being violated.

Article 3. Violations

4031. If upon inspection the department determines that a public water system fails to comply with any drinking water standard or violates any regulation relating to the operation or maintenance of a public water system, it may issue a cease-and-desist order to the permittee. The cease-and-desist order shall be served upon the permittee personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each cease-and-desist order shall be in writing and shall describe with particularity the nature of the failure to comply or the violation, including a reference to the statutory provision, standard, rule, or regulation alleged to have not been complied with or to have been violated. The cease-and-desist order shall fix the earliest feasible time for the elimination of the condition constituting the failure to comply or the violation, where appropriate.

Cease-and-desist orders issued pursuant to this chapter shall be classified according to the nature of the failure to comply or the violation and shall indicate the classification on the face thereof, as follows:

(a) Failure to comply with any primary drinking water standard which the director determines may have an adverse effect upon health, or a substantial probability of an adverse effect upon health.

(b) Failure to comply with any secondary drinking water standard which the director determines may have a direct or immediate relationship to the welfare of the water users and which results from the improper operation of water treatment facilities.

(c) Failure to comply with any drinking water standard or violation of any department rule or regulation which the director determines has only a minimal relationship to the health of water users.

Article 4. Remedies

4032. (a) Any person who operates a public water system without having an unrevoked permit to do so, may be enjoined from so doing by any court of competent jurisdiction at the suit of the department.

(b) Where a public water system has failed to meet a drinking

water standard for a period of 90 days and the operator has not presented a plan for bringing the water system into compliance therewith deemed reasonable by the department, the department may bring an action in the superior court to enforce a reasonable plan of compliance, including the appointment of a competent person, to be approved by the department and paid by the operator of the public water system, who shall take charge of and operate the system so as to secure compliance; or to enjoin further service connections to the public water system, or to obtain such other relief as may be required to insure compliance with this chapter.

4033. Any person who intentionally or negligently violates any cease-and-desist order issued, reissued, or amended pursuant to the provisions of Section 4031 may be liable civilly as follows:

(a) For failure to comply with any primary drinking water standards, an amount not to exceed five thousand dollars ($5,000) for each violation.

(b) For failure to comply with any secondary drinking water standards, an amount not to exceed two hundred fifty dollars ($250) for each violation.

(c) For failure to comply with any drinking water standard or department rule or regulation which has only a minimal relationship to the health of water users, an amount of not more than fifty dollars ($50).

4034. (a) The Attorney General, upon request of the department, shall petition a court of competent jurisdiction to impose, assess, and recover such sums. In determining such amount, the court shall take into consideration all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and any corrective actions taken.

(b) Except as provided in subdivision (c) of Section 4035, remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.

4035. It is unlawful for any person to furnish or supply to a user water used or intended to be used for human consumption or for domestic purposes which is impure, unwholesome, unpotable, polluted, or dangerous to health.

(a) Every person who knowingly violates any provision of this section, or of any order of the department issued pursuant to this section, or knowingly files a false statement or report required by the department under this chapter, or who procures, aids, or abets in any such violation or failure, is guilty of a misdemeanor punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both.

(b) Each day's violation of any provision of this section, or of any order of the department issued pursuant to this chapter, beyond the time stated for compliance, shall be a separate and distinct offense.

(c) Penalties shall not be imposed under subdivision (b) if a

proceeding is pending under Section 4034.

4036. Anything done, maintained, or suffered as a result of failure to comply with any primary drinking water standard is a public nuisance dangerous to health, and may be enjoined or summarily abated in the manner provided by law. Every public officer or body lawfully empowered to do so shall abate the nuisance immediately.

Article 5. Judicial Review

4037. (a) Within 30 days after service of a copy of a cease-and-desist order issued by the department pursuant to Section 4031, any aggrieved party may file with the superior court a petition for a writ of mandate for review thereof. Failure to file such an action shall not preclude a party from challenging the reasonableness and validity of a decision or order of the department in any judicial proceedings brought to enforce such decision or order or for any civil or criminal remedy authorized by this chapter.

(b) The evidence before the court shall consist of all relevant evidence which, in the judgment of the court, should be considered to effectuate and implement the provisions of this chapter. In every case, the court shall exercise its independent judgment on the evidence.

(c) Except as otherwise provided herein, the provisions of subdivisions (e) and (f) of Section 1094.5 of the Code of Civil Procedure shall govern proceedings pursuant to this section.

SEC. 2.5. Chapter 7 (commencing with Section 4010) is added to Part 1 of Division 5 of the Health and Safety Code, to read:

CHAPTER 7. WATER AND WATER SYSTEMS

Article 1. Permits

4010. The Legislature finds and declares that the water delivered by public water systems of this state be at all times pure, wholesome, and potable and that the provisions of this chapter provide the means to accomplish this objective.

4010.1. As used in this chapter:

(a) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(b) "Drinking water standards" means:

(1) Primary drinking water standards that specify maximum levels of contaminants which, in the judgment of the director, may have an adverse effect on the health of persons.

(2) Secondary drinking water standards that specify maximum contaminant levels which, in the judgment of the director, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water which may adversely affect the odor or appearance of such water and may cause a substantial number of persons served by the public water

system to discontinue its use, or which may otherwise adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water which adversely affects the taste, odor, or appearance of such water when the standards are necessary to assure a supply of pure, wholesome, and potable water.

(c) "Maximum contaminant level" means the maximum permissible level of a contaminant in water.

(d) "Person" means an individual, corporation, company, association, partnership, municipality, public utility, or other public body or institution.

(e) "Public water system" means a system for the provision of piped water to the public for human consumption which has five or more service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

(1) Any collection, treatment, storage, and distribution facilities under control of the operator of such system which are used primarily in connection with such system.

(2) Any collection or pretreatment storage facilities not under the control of the operator which are used primarily in connection with such system.

(f) "Significant rise in the bacterial count of water" means such rise in the bacterial count of water as the department determines, by regulation, represents an immediate danger to the health of water users.

(g) "User" means any person using water for domestic purposes. User does not include any person processing, selling, or serving water or operating a public water system.

(h) "Waterworks standards" means regulations adopted by the department which take cognizance of the latest available "Standards of Minimum Requirements for Safe Practice in the Production and Delivery of Water for Domestic Use" adopted by the California section of the American Water Works Association.

(i) "Local system" means a water system that furnishes or supplies less than 200 service connections or any system supplying only an industrial camp, hotel, motel, condominium, or temporary or permanent resort.

4010.2. This chapter shall not apply to a public water system which meets all of the following conditions:

(a) Consists only of distribution and storage facilities and does not have any collection and treatment facilities.

(b) Obtains all of its water from, but is not owned or operated by, a public water system to which this chapter applies.

(c) Does not sell water to any person or user.

4010.3. This chapter shall not apply to an irrigation canal system if the owner or operator of such system certifies to the department or the local health officer for a local system, and notifies each user,

in writing, that such water is untreated and is being furnished or supplied solely for agricultural purposes to either of the following:

(a) A user where the user receives the water, by pipe or otherwise, directly from such irrigation canal system.

(b) A person who owns or operates an integrated pipe system where such person receives the water, by pipe or otherwise, directly from such irrigation canal system.

"Irrigation canal system," as used in this section, means a system of water conveyance facilities, including pipes, tunnels, canals, conduits, pumping plants and related facilities operated to furnish or supply water for agricultural purposes where a substantial portion of such facilities is open to the atmosphere.

4010.4. In areas where the water service rendered by a person is primarily agricultural, and domestic service is only incidental thereto, the provisions of this chapter shall not apply except in specific areas in which the department, or the local health officer for a local system, has found its application to be necessary for the protection of the public health and has given written notice thereof to the person furnishing or supplying water in such area.

The department, or the local health officer for a local system, may prescribe reasonable and feasible action to be taken by such persons or the users to insure that their domestic water will not be injurious to health.

4011. No person shall operate a public water system unless he first files a petition for permission to do so with the department and receives a permit as provided in this chapter. Any person who holds a permit or amended permit to furnish or supply water to a user for domestic purpose under the provisions of Chapter 7 (commencing with Section 4010) as they existed prior to enactment of this chapter, shall be deemed to have been issued a permit in compliance with this chapter. Any actions with respect to such permits or amended permits taken after enactment of this chapter shall be governed by the provisions of this chapter.

The department, or the local health officer for a local system, may for good cause grant a temporary permit to any person who has filed a petition for a permit as provided in this chapter, upon such terms as it shall determine are in the public interest. The temporary permit shall terminate upon the date specified therein.

4012. With a petition for a permit shall be filed a complete set of plans and specifications, together with a statement containing a general description and history of the existing or proposed plant, works, or system or proposed changes therein, and showing the geographical location thereof with relation to the source of the water supply and all the sanitary and health conditions surrounding and affecting such supply and the plant, works or system.

The plans, specifications, and statement shall be in such form and cover such matters as the department prescribes.

4013. Upon receipt of a petition filed pursuant to this chapter, the department, or the local health officer for a local system, shall make

a thorough investigation of the proposed or existing plant, works, system, or water supply, and all other circumstances and conditions which the department or such local health officer deems material.

4014. As a part of the investigation, and after 10 days' notice by mail to the petitioner, a hearing may be had before the department or an examiner appointed by it or the local health officer for a local system. At the hearing all testimony shall be given under oath, and evidence, oral and documentary, may be received, a record of which shall be made and filed with the department or the local health officer for a local system. Notice of any such hearing shall be given to the public by the petitioner in form prescribed by the department.

4015. If, upon the completion of the investigation, the department, or the local health officer for a local system, determines that the water furnished or supplied, or proposed to be supplied, is such that under all the circumstances and conditions it is not pure, wholesome, and potable or may constitute a menace or danger to the health or lives of human beings, or that the existing or proposed plant, works, system or water supply, or proposed modifications, are unhealthful or insanitary, or not suited to the production and delivery of pure, wholesome, and potable water at all times for health and normal household use, the department or such local health officer shall deny the petition and order the petitioner to make such changes as it deems necessary to secure a continuous and adequate supply of pure, wholesome, healthful, and potable water.

4016. If the department, or the local health officer for a local system determines that the system will not be subject to backsyphonage under normal operating conditions and that the water to be furnished or supplied is such that under all the circumstances and conditions it is pure, wholesome, and potable and will not endanger the lives or health of human beings, the department or such local health officer shall grant a permit authorizing the petitioner to furnish or continue to furnish or supply water. The department or any local health officer may issue a permit for any public water system supplying fewer than 200 service connections.

4017. The department, or the local health officer for a local system may order such repairs, alterations, or additions to the existing plant, works, or system or installation of purification and treatment works, or may order such changes in the source of the water supply, or any other measure necessary to insure that the system will not be subject to backsyphonage under normal operating conditions and that the water furnished or supplied shall at all times be pure, wholesome, and potable and without danger to the lives or health of human beings.

4018. Any order requiring repairs, alterations, additions or changes shall designate the period within which the order is to be performed.

A temporary permit may be issued by the department, or the local health officer for a local system, for the period fixed to permit the

petitioner to comply with the order.

4019. No person operating a public water system shall modify, add to or change his source of supply or method of treatment of, or change his distribution system for, water for domestic purposes as authorized by a valid existing permit issued to him by the department, or the local health officer for a local system, unless the person first files a petition to do so with the department, or the local health officer for a local system, and receives an amended permit as provided in this chapter authorizing such modification, addition or change in his source of supply or method of treatment or in his distribution system as may be specified in such amended permit. Changes in distribution systems may be made without permit review if such changes comply in all particulars with the waterworks standards. Petitions for amended permits shall be made in accordance with the provisions of this chapter for the making of a petition for a permit and shall be investigated, considered, determined and issued or denied upon the same terms and conditions as provided for the issuance or denial of a permit as provided in this chapter.

4020. Any permit issued, including a temporary permit, may be revoked or suspended by the department, or the local health officer for a local system, at any time after hearing noticed and conducted as provided in Section 4014 for permit investigation, if the department, or the local health officer for a local system, determines that the water being supplied or furnished by the permittee is or may become impure, unwholesome, or unpotable or endangers or may endanger the lives or health of human beings, or if the department, or the local health officer for a local system, determines that requirements or conditions of the permit are not being met.

4021. (a) The department, or the local health officer for a local system, may grant one or more variances from drinking water standards, treatment techniques, or requirements to a public water system which, because of characteristics of the raw water sources which are reasonably available to the system, cannot meet the requirements respecting the maximum contaminant levels of such drinking water, despite application of the best technology, treatment techniques, or other means which the department finds are generally available, taking costs into consideration. Before the department, or the local health officer for a local system, may grant a variance under this section, the department, or the local health officer for a local system, shall find that the variance will not result in an unreasonable risk to the health of users.

(b) If the department, or the local health officer for a local system, grants a variance under this section, the supplier shall present a schedule acceptable to the department, or the local health officer for a local system, for the accomplishment, within one year of the date the variance is granted, of:

(1) Compliance with each contaminant level requirement with respect to which the variance was granted.

(2) Implementation of such interim control measures as the department, or the local health officer for a local system, may require for each contaminant subject to the variance during the period ending with the date full compliance is required.

(c) The department, or the local health officer for a local system, may grant an exemption from any requirement respecting a maximum contaminant level or any treatment technique upon a finding that the public water system meets all of the following conditions:

(1) The system was in operation on the effective date of this chapter.

(2) The public water system is unable to comply with such contaminant level or treatment technique requirements due to compelling factors, which may include economic factors.

(3) The grant of the exemption will not result in an unreasonable risk to health.

If the department, or the local health officer for a local system, grants an exemption under this section, the department, or the local health officer for a local system, shall prescribe a schedule as set forth in subdivision (b) which shall be subject to the same terms and conditions.

(d) Any schedule prescribed under this section shall require compliance with the drinking water standards with respect to each contaminant as expeditiously as the department, or the local health officer for a local system, may determine reasonable. Issuance of the variance or exemption shall be conditioned upon compliance with the schedule.

(e) Before any schedule prescribed under this section may take effect, the department, or the local health officer for a local system, shall provide an opportunity for a public hearing on the schedule. Notice of such public hearing shall be given by the department, or the local health officer for a local system, in writing to the operator of the public water system seeking the variance or exemption and to the public as provided in Section 6061 of the Government Code in a form prescribed by the department.

(f) No exemption and no schedule prescribed in connection with this chapter may continue for more than seven years.

4022. Where a public water system operating under a variance or exemption fails to comply with the schedule prescribed by the department or the local health officer for a local system, the department or the local health officer for a local system may revoke the variance or exemption in the same manner as provided in Section 4020 for permit revocation.

Article 2. Regulations

4023. The department or the local health officer for a local system may, by order, require the holder of a permit to furnish to the department or the local health officer a complete report on the

condition and operation of the plant, works, system, or water supply owned, operated, or controlled by him. Upon a finding by the department, or the local health officer for a local system, that a public water system does not meet the secondary drinking water standards and may cause a substantial number of persons served by the public water system to discontinue its use, the department, or the local health officer for a local system, may order the supplier to conduct a study of the causes, methods of correction, and the estimated cost of one or more alternative solutions. The results of such study shall be made available to the users, the department, the local health officer for local systems, and, where appropriate, to the Public Utilities Commission. These reports shall be made by some competent person, under oath, at the sole cost and expense of the holder of the permit.

4023.5. Secondary drinking water standards, adopted by the department and applied to public water systems under the jurisdiction of the Public Utilities Commission, shall be enforced and noticed in the same manner as primary drinking water standards.

4024. Any person operating a public water system shall obtain and provide at such person's expense an analysis of such water to the department or the local health officer for a local system, in such form, covering such matters, and at such intervals as the department by regulation prescribes. The analysis shall be performed by a laboratory duly certified by the department.

4025. No laboratory in this state, other than a laboratory operated by the department, shall perform the tests required pursuant to this chapter for any public water system without first obtaining a certificate issued by the department that such laboratory is competent and equipped to conduct such tests. Certificates shall be renewed every three years after the date of issuance. The department may revoke any certificate issued hereunder upon its determination that the laboratory is no longer competent or equipped to conduct water tests.

4026. The department shall formulate and adopt such rules and regulations covering parameters to be tested and their limits, type of testing, frequency of testing, and such other matters as may be necessary to determine the quality of domestic water supplies, and to establish schedules for compliance with water quality standards.

The regulations and standards adopted by the department shall in no case be less stringent than those set by the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act (PL 93-523); provided that exemptions and variances may be granted in accordance with the provisions of this chapter and as permitted by the Safe Drinking Water Act (PL 93-523).

4027. The department shall establish a water quality advisory council which shall assist in the formulation of regulations, policies, and programs with respect to any matter covered by this chapter, including standards for determining the quality of domestic water supplies and criteria for determining the quality of domestic water

supplies and criteria for determining the various classifications of cease-and-desist orders and the penalties for violation of such orders.

The advisory council shall be composed of not less than 10 members and shall be comprised of an equal number of persons representing the water utility industry and consumers. The department shall consider recommendations from the California section of the American Water Works Association and the Association of California Water Agencies prior to making appointments of the water utility industry representatives. The department shall also consider recommendations from the Department of Consumer Affairs prior to making appointments of the consumer representatives.

4028. (a) When any primary drinking water standard specified in the department's regulations is not complied with, when a monitoring requirement specified in the department's regulations is not performed, or when a water purveyor fails to comply with the conditions of any variance or exemption, the person operating the public water system shall notify the department, or the local health officer for a local system, and shall give notice to the users of such fact in the manner prescribed by the department. When a variance or exemption is granted, the person operating the public water system shall give notice to the users of such fact.

(b) When a person operating a public water system determines that a significant rise in the bacterial count of water has occurred in water he supplies, the person shall provide, at his expense, a report on the rise in bacterial count of the water, together with the results of an analysis of such water within 24 hours to the department and, where appropriate, the local health officer.

(c) When the department, or the local health officer for a local system, receives the information described in subdivision (b) and determines that it constitutes an immediate danger to health, the department, or the local health officer for a local system, shall immediately notify the person operating the public water system to implement the emergency notification plan required by this chapter.

(d) In the case of a failure to comply with any primary drinking water standard which represents an imminent danger to the health of water users the operator shall notify each of his customers as provided in his approved emergency notification plan.

(e) The content of notices required by this section shall be approved by the department or the local health officer for a local system. Notice shall be repeated at intervals as required by the department, or the local health officer for a local system, until the department, or the local health officer for a local system, concludes that there is compliance with its standards or requirements. Notices may be given by the department or the local health officer for a local system.

4029. No person shall operate a public water system without an emergency notification plan which has been submitted to and

approved by the department or the local health officer for a local system. Such emergency notification plan shall provide for immediate notice to the customers of the public water system of any significant rise in the bacterial count of water or other failure to comply with any primary drinking water standard which represents an imminent danger to the health of the water users.

No permit, variance or exemption may be issued or amended under this chapter until an emergency notification plan has been approved by the department or the local health officer for a local system.

The department shall adopt rules and regulations to implement the provisions of this section. Such rules and regulations may provide for the exclusion of public water systems from the requirements of this section when, in the judgment of the department, such exclusion will best serve the public interest.

4029.5. Any public water system under the jurisdiction of the Public Utilities Commission may be required to install and operate additional facilities if upon the conclusion of a public hearing the director of the department determines that such facilities are necessary to provide the users of the water system a continuous and adequate supply of water or to bring a water system into conformity with secondary drinking water standards.

4030. The department, or the local health officer for a local system, may at any and all reasonable times enter any and all places, property, enclosures, and structures for the purpose of making examinations and investigations to determine whether any provision of this chapter is being violated.

4030.5. Upon a determination by the department that a local health officer has not complied with the provisions of this chapter, the department may act for the local health officer in compliance with this chapter.

4030.7. By resolution of the governing board of the local health officer, the governing board may transfer the responsibilities specified in this chapter of the local health officer to the department.

Article 3. Violations

4031. If upon inspection the department, or the local health officer for a local system, determines that a public water system fails to comply with any drinking water standard or violates any regulation relating to the operation or maintenance of a public water system, the department or such local health officer may issue a cease-and-desist order to the permittee. The cease-and-desist order shall be served upon the permittee personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each cease-and-desist order shall be in writing and shall describe with particularity the nature of the failure to comply or the violation, including a reference to the statutory provision, standard, rule, or regulation alleged to have not been

complied with or to have been violated. The cease-and-desist order shall fix the earliest feasible time for the elimination of the condition constituting the failure to comply or the violation, where appropriate.

Cease-and-desist orders issued pursuant to this chapter shall be classified according to the nature of the failure to comply or the violation and shall indicate the classification on the face thereof, as follows:

(a) Failure to comply with any primary drinking water standard which the director determines may have an adverse effect upon health, or a substantial probability of an adverse effect upon health.

(b) Failure to comply with any secondary drinking water standard which the director determines may have a direct or immediate relationship to the welfare of the water users and which results from the improper operation of water treatment facilities.

(c) Failure to comply with any drinking water standard or violation of any department rule or regulation which the director determines has only a minimal relationship to the health of water users.

Article 4. Remedies

4032. (a) Any person who operates a public water system without having an unrevoked permit to do so, may be enjoined from so doing by any court of competent jurisdiction at the suit of the department or the local health officer for a local system.

(b) Where a public water system has failed to meet a drinking water standard for a period of 90 days and the operator has not presented a plan for bringing the water system into compliance therewith deemed reasonable by the department or the local health officer for a local system, the department, or the local health officer for a local system, may bring an action in the superior court to enforce a reasonable plan of compliance, including the appointment of a competent person, to be approved by the department, or the local health officer for a local system, and paid by the operator of the public water system, who shall take charge of and operate the system so as to secure compliance; or to enjoin further service connections to the public water system, or to obtain such other relief as may be required to insure compliance with this chapter.

4033. Any person who intentionally or negligently violates any cease-and-desist order issued, reissued, or amended pursuant to the provisions of Section 4031 may be liable civilly as follows:

(a) For failure to comply with any primary drinking water standards, an amount not to exceed five thousand dollars ($5,000) for each violation.

(b) For failure to comply with any secondary drinking water standards, an amount not to exceed two hundred fifty dollars ($250) for each violation.

(c) For failure to comply with any drinking water standard or

department rule or regulation which has only a minimal relationship to the health of water users, an amount of not more than fifty dollars ($50).

4034. (a) The Attorney General, upon request of the department, shall petition a court of competent jurisdiction to impose, assess, and recover such sums. In determining such amount, the court shall take into consideration all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and any corrective actions taken.

(b) Except as provided in subdivision (c) of Section 4035, remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.

4035. It is unlawful for any person to furnish or supply to a user water used or intended to be used for human consumption or for domestic purposes which is impure, unwholesome, unpotable, polluted, or dangerous to health.

(a) Every person who knowingly violates any provision of this section, or of any order of the department, or the local officer for a local system issued pursuant to this section, or knowingly files a false statement or report required by the department under this chapter, or who procures, aids, or abets in any such violation or failure, is guilty of a misdemeanor punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both.

(b) Each day's violation of any provision of this section, or of any order of the department or the local health officer issued pursuant to this chapter, beyond the time stated for compliance, shall be a separate and distinct offense.

(c) Penalties shall not be imposed under subdivision (b) if a proceeding is pending under Section 4034.

4036. Anything done, maintained, or suffered as a result of failure to comply with any primary drinking water standard is a public nuisance dangerous to health, and may be enjoined or summarily abated in the manner provided by law. Every public officer or body lawfully empowered to do so shall abate the nuisance immediately.

Article 5. Judicial Review

4037. (a) Within 30 days after service of a copy of a cease-and-desist order issued by the department, or the local health officer for a local system, pursuant to Section 4031, any aggrieved party may file with the superior court a petition for a writ of mandate for review thereof. Failure to file such an action shall not preclude a party from challenging the reasonableness and validity of a decision or order of the department or order of the local health officer in any judicial proceedings brought to enforce such decision or order or for any civil or criminal remedy authorized by this chapter.

(b) The evidence before the court shall consist of all relevant evidence which, in the judgment of the court, should be considered to effectuate and implement the provisions of this chapter. In every case, the court shall exercise its independent judgment on the evidence.

(c) Except as otherwise provided herein, the provisions of subdivisions (e) and (f) of Section 1094.5 of the Code of Civil Procedure shall govern proceedings pursuant to this section.

SEC. 3. Section 770 of the Public Utilities Code is amended to read:

770. The commission may after hearing:

(a) Ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed, and followed by all electrical, gas, water, and heat corporations.

(b) Ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, or other condition pertaining to the supply of the product, commodity, or service furnished or rendered by any such public utility. No standard of the commission applicable to any water corporation shall be inconsistent with the regulations and standards of the State Department of Health pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

(c) Prescribe reasonable regulations for the examination and testing of such product, commodity, or service and for the measurement thereof.

(d) Establish reasonable rules, specifications, and standards to secure the accuracy of all meters and appliances for measurements.

(e) Provide for the examination and testing of any and all appliances used for the measurement of any product, commodity, or service of any such public utility.

SEC. 4. Section 770 of the Public Utilities Code is amended to read:

770. The commission may after hearing:

(a) Ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed, and followed by all electrical, gas, water, and heat corporations.

(b) Ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, or other condition pertaining to the supply of the product, commodity, or service furnished or rendered by any such public utility. No standard of the commission applicable to any water corporation shall be inconsistent with the regulations and standards of the State Department of Health pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

(c) Prescribe reasonable regulations for the examination and testing of such product, commodity, or service and for the measurement thereof.

(d) Establish reasonable rules, specifications, and standards to secure the accuracy of all meters and appliances for measurements. The commission shall require a public utility that estimates meter readings to so indicate on its billings, and shall require any such estimate which is incorrect to be corrected by the next billing period, except that for reasons beyond its control due to weather, or in cases of unusual conditions, corrections for any over- or underestimate shall be reflected on the first regularly scheduled bill and based on an actual reading following the period of inaccessibility.

(e) Provide for the examination and testing of any and all appliances used for the measurement of any product, commodity, or service of any such public utility.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 3496 are both chaptered and become effective January 1, 1977, both bills amend Section 770 of the Public Utilities Code, and this bill is chaptered after Assembly Bill No. 3496, that the amendments to Section 770 proposed by both bills be given effect and incorporated in Section 770 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill No. 3496 are both chaptered and become effective January 1, 1977, both amend Section 770, and this bill is chaptered after Assembly Bill No. 3496, in which case Section 3 of this act shall not become operative.

SEC. 6. Section 2.5 of this act shall become operative only if this bill and Assembly Bill No. 4090 of the 1975–76 Regular Session are both chaptered, whether or not this bill is chaptered prior or subsequent to Assembly Bill No. 4090, in which case Section 2 of this act shall not become operative.

SEC. 7. 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 merely affirms for the state that which has been declared existing law or regulation through action of the federal government.

CHAPTER 1088

An act to amend Section 1016 of the Penal Code, relating to pleas.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 1016 of the Penal Code is amended to read:

1016. There are six kinds of pleas to an indictment or an information, or to a complaint charging an offense triable in any inferior court:

1. Guilty.

2. Not guilty.

3. Nolo contendere, subject to the approval of the court. The court shall ascertain whether the defendant completely understands that a plea of nolo contendere shall be considered the same as a plea of guilty and that, upon a plea of nolo contendere, the court shall find the defendant guilty. The legal effect of such a plea shall be the same as that of a plea of guilty, but the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of and factual basis for the plea may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based.

4. A former judgment of conviction or acquittal of the offense charged.

5. Once in jeopardy.

6. Not guilty by reason of insanity.

A defendant who does not plead guilty may enter one or more of the other pleas. A defendant who does not plead not guilty by reason of insanity shall be conclusively presumed to have been sane at the time of the commission of the offense charged; provided, that the court may for good cause shown allow a change of plea at any time before the commencement of the trial. A defendant who pleads not guilty by reason of insanity, without also pleading not guilty, thereby admits the commission of the offense charged.

CHAPTER 1089

An act to amend Section 1182 of the Labor Code, relating to minimum wages.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 1182 of the Labor Code is amended to read:

1182. After the wage board conference and public hearing, as provided in this chapter, the commission may, upon its own motion or upon petition, fix:

(a) A minimum wage to be paid to employees engaged in any occupation, trade, or industry in this state, which shall not be less than a wage adequate to supply the necessary costs of proper living to, and maintain the health and welfare of such employees. Such minimum wage shall not, in any case, be less than the then current federal minimum wage applicable to employees covered by the Federal Fair Labor Standards Act of 1938 (Secs. 201 et seq., Title 29, U.S.C.) prior to February 1, 1967. If, at any time, the federal minimum wage applicable to employees covered by the Fair Labor Standards Act prior to February 1, 1967, exceeds the minimum wage

set by the commission, the provisions of Section 1178 pertaining to wage boards shall be waived. The commission shall then proceed to hold a public hearing in each of three cities in this state and fix a new minimum wage at the higher federal minimum wage, as provided in Sections 1182 to 1189, inclusive. The commission shall not fix a minimum wage higher than the federal minimum wage without full compliance with the provisions of this chapter.

(b) The maximum hours of work consistent with the health and welfare of employees engaged in any occupation, trade, or industry in this state.

(c) The standard conditions of labor demanded by the health and welfare of the employees engaged in any occupation, trade, or industry in this state.

The commission may thereupon make a mandatory order, to be effective on a date fixed by the commission, which date shall not be less than 60 nor more than 90 days from the publication thereof, specifying the minimum wage to be paid all employees, and the maximum hours and the standard conditions of labor for the employees in the occupation, trade, or industry in question. The hours specified shall not be more than the maximum for employees in California. Such order shall be published in at least one newspaper in each of the Cities of Los Angeles, Sacramento, Oakland, San Jose, Fresno, San Diego, and San Francisco.

CHAPTER 1090

An act to add Article 4.2 (commencing with Section 3250) to Chapter 1 of Division 3 of the Public Resources Code, relating to oil and gas, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Article 4.2 (commencing with Section 3250) is added to Chapter 1 of Division 3 of the Public Resources Code, to read:

Article 4.2. Hazardous Wells

3250. The Legislature hereby finds and declares that certain hazardous oil and gas wells, as defined in this article, are public nuisances and that it is essential, in order to protect life, health, and natural resources that such oil and gas wells be abandoned, reabandoned, produced, or otherwise remedied to mitigate, minimize, or eliminate their danger to life, health, and natural resources.

The Legislature further finds and declares that, although the abatement of such public nuisances could be accomplished by means of an exercise of the regulatory power of the state, such regulatory abatement would result in unfairness and financial hardship for certain landowners, while also resulting in benefits to the public. The Legislature, therefore, finds and declares that the expenditure of funds to abate such nuisances as provided in this article is for a public purpose and finds and declares it to be the policy of this state that the cost of carrying out such abatement be charged to this state's producers of oil and gas as provided in Article 7 (commencing with Section 3400) of this chapter.

3251. For the purposes of this article, an oil or gas well is a "hazardous well" if the well has been determined by the supervisor to presently pose a danger to life, health, or natural resources; and the supervisor also determines either one of the following:

(a) That regulatory abatement of such a public nuisance is not possible because the last person that had an economic interest in, or received any benefit from, the well is deceased, defunct, or no longer in business in this state.

(b) That any other person that has or had an economic interest in, or received benefit from, the well derives or derived only insubstantial benefit or little or no financial gain from the well; and that the cost of such abatement imposed on such a person would constitute severe economic hardship. In making determinations respecting benefit, financial gain, and severe economic hardship, the supervisor may seek such information and require such proof of these matters as may be desirable or necessary.

As used in this section, "person" has the same meaning as the definition of "person" in Section 3005.

3252. As used in this article, "natural resources" includes land, water, air, minerals, vegetation, wildlife, historical or aesthetic sites, or any other natural resource which, irrespective of ownership, contributes to the health, safety, welfare, or enjoyment of a substantial number of persons, or to the substantial balance of an ecological community.

3253. If any provisions of this article or the application thereof in any circumstances or to any person or public agency is held invalid, the remainder of this article or the application thereof in other circumstances or to other persons or public agencies shall not be affected thereby.

3254. This article shall be liberally construed and applied to promote its purposes.

3255. (a) Notwithstanding any other provision of this division, the supervisor may order that any of the following operations be carried out on any property in the vicinity of which, or on which, is located any well that the supervisor determines to be a hazardous well if any of the following operations are necessary to the abatement of a hazardous well:

0 4049 29 3 130 326

(1) Any inspection or tests necessary to determine what action, if any, would be appropriate to effectuate the purpose of this article.

(2) The abandonment of such a well.

(3) The reabandonment of such a well.

(4) The redrilling and production of an existing well for purposes of remedying, mitigating, minimizing, or eliminating danger to life, health, and natural resources.

(5) The drilling and production of a well for purposes of remedying, mitigating, minimizing, or eliminating danger to life, health, and natural resources.

(6) Any other remedy or oilfield operation calculated to effectuate the purpose of this article.

(b) If, pursuant to this article, the supervisor orders that any operation be carried out with respect to a hazardous well and such operation will, by virtue of the physical occupation or destruction of all or any part of the property or the extraction of oil or gas from such property, substantially interfere with the enjoyment of the property, the supervisor shall acquire, as provided in Section 3256, such minimal interest in the property as is necessary to carry out such operation. No such acquisition may be made pursuant to this subdivision unless the supervisor finds and determines that the public benefits to be derived therefrom in remedying, mitigating, minimizing, or eliminating danger to life, health, and natural resources will exceed the cost of such acquisition, irrespective of the manner in which such acquisition is to be funded.

(c) An order of the supervisor to carry out any of the operations listed in subdivision (a) may be appealed by the owner of the property pursuant to Article 6 (commencing with Section 3350) of this chapter, except that in the case of an emergency no stay of the supervisor's order shall accompany the appeal.

3256. (a) The division is hereby authorized to accept, and hold for and in the name of the state, by gift, exchange, purchase, negotiation, or eminent domain proceedings, any and all property or appurtenances of every kind and description thereto, including land, leases, easements, rights-of-way, oil, gas, or other mineral rights as the supervisor determines to be required and necessary to carry out operations to effect the purpose of this article.

(b) When the division cannot acquire any such necessary property or interest therein by agreement with the owner, any such property or interest therein authorized to be acquired under this article shall be acquired pursuant to provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code); except that, notwithstanding any provision thereof, the division, in the name of and for the state, may take immediate possession and use of any property required to carry out operations to effect the purpose of this article after eminent domain proceedings are first commenced according to law in a court of competent jurisdiction, and thereupon giving such security as the court in which the proceedings are

pending directs to secure to the owner of the property sought to be taken immediate compensation for the taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property.

3257. To effect the purpose of this article, the division is authorized to enter into agreements with any person, public agency, corporation, or other entity for the management or operation of property acquired or for the conduct of any operation ordered pursuant to this article.

3258. The division may not make expenditures pursuant to this article that exceed the sum of five hundred thousand dollars ($500,000) in any one fiscal year.

3259. On or before January 31, 1979, the supervisor shall submit to the Legislature a report covering all operations and expenditures under this article through June 30, 1978.

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:

There are presently in the State of California a number of hazardous oil and gas wells that pose a danger to the peace, health, and safety of the people of the state and should be immediately remedied. This act authorizes the State Oil and Gas Supervisor to carry out necessary remedial work, and it is necessary therefore that this act go into immediate effect.

CHAPTER 1091

An act to add Section 8622 to the Business and Professions Code, relating to structural pest control operators.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 8622 is added to the Business and Professions Code, to read:

8622. When a complaint is accepted for investigation of a person acting as an operator, the board, through an authorized representative may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by such operator to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines such property or properties are not in compliance, a notice shall be sent to the operator so stating. The operator shall have 30 days from the receipt of the notice to bring such property into compliance, and

he shall submit a corrected report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars ($125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the corrected report or notice or both, a commensurate reinspection fee shall also be charged. If the investigator makes no determination or determines the property is in compliance, no inspection fee shall be charged.

CHAPTER 1092

An act to amend Sections 980, 987.61 and 987.90 of the Military and Veterans Code, and to amend Section 205 of the Revenue and Taxation Code, relating to veterans.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 980 of the Military and Veterans Code is amended to read:

980. As used in this chapter, "veteran" means any citizen of the United States who served in the active military, naval or air service of the United States on or after April 6, 1917, and prior to November 12, 1918, and received an honorable discharge therefrom or was released from active duty under honorable conditions and who was, at the time of his entry into active duty, a native of or a bona fide resident of this state, or who, if a minor at such time, entered active duty while in the State of California and had lived in this state for six months immediately preceding his entry into active duty; or any person who served in the active military, naval, or air service of the United States for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within such 90-day period, any portion of which was on or after December 7, 1941, and prior to January 1, 1947, and received an honorable discharge therefrom or was released from active duty under honorable conditions and who was at the time of his entry into active duty a native of or bona fide resident of this state, or who, if a minor at such time, entered active duty while in the State of California and had lived in this state for six months immediately preceding his entry into active duty; or any person who served in the active military, naval or air service of the United States for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within such 90-day period, any portion of which was on or after June 27, 1950, and prior to February 1, 1955, or any person who served in the active military, naval, or air service of the United States for a period of not less than 90 consecutive days or was discharged from the service due to a

service-connected disability within such 90-day period, any portion of which was on after August 5, 1964, and prior to May 8, 1975, or in time of peace in a campaign or expedition for service in which a medal has been authorized by the government of the United States, and received an honorable discharge therefrom or was released from active duty under honorable conditions and who was at the time of his entry into active duty a native of or a bona fide resident of this state or who, if a minor at such time, entered active duty while in the State of California and had lived in this state for six months immediately preceding his entry into active duty.

This chapter does not include:

(a) A person who was separated from such forces under other than honorable conditions.

(b) A person who was separated from such forces on account of alienage.

(c) A person who performed no military duty whatever or refused to wear the uniform.

(d) A person who has received from another state a bonus, compensation, or benefit, the prerequisite of which is service in such forces, which service is the basis for the claim of benefits under this chapter.

(e) A person who served only in an auxiliary or reserve component of the armed forces whose service therein did not exempt him from the operation of the Selective Training and Service Act of 1940.

(f) A person whose service with the armed forces was due to temporary active duty orders for the sole purpose of training duty, processing or a physical examination.

SEC. 2. Section 987.61 of the Military and Veterans Code is amended to read:

987.61. The department may purchase property, subject to a participation contract providing for a loan term of not less than 23 years. In no event shall the purchase price plus the participation contract exceed thirty-five thousand dollars ($35,000) or equal more than 95 percent of the market value of the property as determined by department appraisal, whichever is the lower amount.

SEC. 3. Section 987.90 of the Military and Veterans Code is amended to read:

987.90. For the purposes of carrying out the provisions of the Veterans' Farm and Home Purchase Act of 1974, there is hereby appropriated, and the department is hereby authorized to utilize the proceeds derived from the Veterans Bond Act of 1974, and from all veterans bond acts subsequent thereto, and to combine such funds up to a percent to be established by the Veterans Finance Committee and reported to the Legislature annually, with funds derived from participation contracts.

SEC. 4. Section 205 of the Revenue and Taxation Code is amended to read:

205. The veterans' exemption is as specified in subdivisions (o),

(p), (q), and (r) of Section 3 of Article XIII of the Constitution.

The following are wars under subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution:

(a) Revolutionary War, April 19, 1775–January 14, 1784.

(b) Second War With England, June 18, 1812–February 17, 1815.

(c) Black Hawk War, April 6, 1832–August 2, 1832.

(d) War With Mexico, April 24, 1846–May 30, 1848.

(e) Civil War, April 18, 1861–August 20, 1866.

(f) War With Spain, April 21, 1898–April 11, 1899.

(g) War in Philippines, April 11, 1899–July 4, 1902.

(h) Chinese Relief Expedition, June 20, 1900–May 15, 1901.

(i) Campaign against the Rogue River, Yakima, Nez Percé, and Snake Indians in Oregon and Washington, 1855–1856.

(j) Campaign against the Indians in southern Oregon and Idaho and northern California and Nevada, 1865–1868.

(k) Campaign against the Cheyennes, Arapahoes, Kiowas, and Comanches in Kansas, Colorado, and Indian Territory, 1867–1869.

(*l*) Modoc War, 1872–1873.

(m) Campaign against the Apaches in Arizona, 1873.

(n) Campaign against the Kiowas, Comanches, and Cheyennes in Kansas, Colorado, Texas, Indian Territory, and New Mexico, 1874–1875.

(o) Campaign against the Northern Cheyennes and Sioux, 1876–1877.

(p) Nez Percé War, 1877.

(q) Bannock War, 1878.

(r) Campaign against the Northern Cheyennes, 1878–1879.

(s) Campaign against the Ute Indians in Colorado and Utah, September, 1879–November, 1880.

(t) Campaign against the Apache Indians in Arizona, 1885–1886.

(u) Campaign against the Sioux Indians in South Dakota, November, 1890–January, 1891.

(v) War With Germany-Austria, April 6, 1917–November 11, 1918.

(w) Campaign against the Apache Indians in Arizona, 1895–1896.

(x) World War II, December 7, 1941, to January 1, 1947.

(y) Campaign against the North Koreans and Chinese Communists in Korea, June 27, 1950, to January 31, 1955.

(z) Campaign against the Viet Cong and North Vietnamese Communists in South Vietnam, August 5, 1964, to May 8, 1975.

The following are campaigns under subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution:

(a) First Nicaraguan campaign.

(b) Second Nicaraguan campaign.

(c) Yangtze River campaign in China.

(d) All other campaigns for service in which a medal has been issued by the Congress of the United States.

0 4066 29 3 225 345

CHAPTER 1093

An act to amend Sections 1803, 2400, 21107.8, 38020, 38021, 38027, 38040, 38070, 38085, 38087, 38100, 38115, 38120, 38122, 38150, 38225, and 38240 of, to amend and renumber the headings of Chapter 3 (commencing with Section 38195) and Chapter 4 (commencing with Section 38225) of Division 16.5 of, to add Sections 38001, 38006, 38007, 38041, and 40000.24 to, to add Article 10 (commencing with Section 38270) to Chapter 3 of Division 16.5 of, to add Chapter 5 (commencing with Section 38280) and Chapter 6 (commencing with Section 38325) to Division 16.5 of, and to repeal Chapter 5 (commencing with Section 38275) and Chapter 6 (commencing with Section 38300) of Division 16.5 of, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 1803 of the Vehicle Code is amended to read:

1803. (a) Every clerk of a court, or judge if there be no clerk, in which a person was convicted of any violation of this code, and of any offense involving use or possession of narcotic controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, and of any violation of any other statute relating to the safe operation of vehicles shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted which abstract must be certified by the person so required to prepare the same to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a) of this section:

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11.

(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, Chapter 3 (commencing with Section 26301), 26707, 27151, 27800, and 27801.

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle.

(7) Division 16.5 (commencing with Section 38000).

(c) If the court impounds a license or orders a person to limit his

driving pursuant to subdivision (c) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

SEC. 2. Section 2400 of the Vehicle Code is amended to read:

2400. The commissioner shall administer Chapter 4 (commencing with Section 10850) of Division 4, Article 3 (commencing with Section 17300) of Chapter 1 of Division 9, Division 10 (commencing with Section 20000), Division 11 (commencing with Section 21000), except Chapter 11 (commencing with Section 22950), Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14 (commencing with Section 31600), Division 14.8 (commencing with Section 34500), Division 15 (commencing with Section 35000), Division 16 (commencing with Section 36000) except Chapter 2 (commencing with Section 36100) and Chapter 3 (commencing with Section 36300), and Division 16.5 (commencing with Section 38000) except Chapter 2 (commencing with Section 38010).

The commissioner shall enforce all laws regulating the operation of vehicles and the use of the highways except that on ways or places to which Section 592 makes reference, the commissioner shall not be required to provide patrol or enforce any provisions of this code other than those provisions applicable to private property.

The commissioner shall not be required to provide patrol for or enforce any provisions of Division 16.5 (commencing with Section 38000).

The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of such provisions and laws, and for the investigation of traffic accidents, on all state highways constructed as freeways within incorporated areas of the state; provided, however, that city police officers while engaged primarily in general law enforcement duties may incidentally enforce state and local traffic laws and ordinances on state freeways. In any city having either a population in excess of 2,000,000 or an area of more than 300 square miles city police officers shall have full responsibility and primary jurisdiction for the administration and enforcement of such laws and ordinances, unless the city council of any such city shall by resolution request administration and enforcement of such laws by the commissioner.

SEC. 4. Section 21107.8 of the Vehicle Code is amended to read:

21107.8. (a) Any city or county may, by ordinance or resolution, find and declare that there are privately owned and maintained off-street parking facilities as described in such ordinance or resolution within the city or county that are generally held open for use of the public for purposes of vehicular parking. Upon enactment by a city or county of such an ordinance or resolution, Sections 22350, 23103, and 23109 shall apply to any such privately owned and

maintained off-street parking facilities, except as provided in subdivision (b). In addition, if specifically stated in such ordinance or resolution, the provisions of Division 16.5 (commencing with Section 38000) shall apply to any such facilities, except as provided in subdivision (b).

(b) Notwithstanding the provisions of subdivision (a), no ordinance or resolution enacted thereunder shall apply to any off-street parking facility described therein unless the owner or operator has caused to be posted in a conspicuous place at each entrance to such off-street parking facility a notice not less than 17 by 22 inches in size with lettering not less than one inch in height, to the effect that such off-street parking facility is subject to public traffic regulations and control.

(c) No ordinance or resolution shall be enacted under subdivision (a) without a public hearing thereon and 10 days prior written notice to the owner and operator of the privately owned and maintained off-street parking facility involved.

(d) The department shall not be required to provide patrol or enforce any provisions of this code on any privately owned and maintained off-street parking facility subjected to the provisions of this code under this section except those provisions applicable to private property other than by action under this section.

SEC. 4.5. Section 21107.8 of the Vehicle Code is amended to read:

21107.8. (a) Any city or county may, by ordinance or resolution, find and declare that there are privately owned and maintained off-street parking facilities as described in such ordinance or resolution within the city or county that are generally held open for use of the public for purposes of vehicular parking. Upon enactment by a city or county of such an ordinance or resolution, Sections 22350, 22507.8, 23103, and 23109 shall apply to any such privately owned and maintained off-street parking facilities, except as provided in subdivision (b). In addition, if specifically stated in such ordinance or resolution, the provisions of Division 16.5 (commencing with Section 38000) shall apply to any such facilities, except as provided in subdivision (b).

(b) Notwithstanding the provisions of subdivision (a), no ordinance or resolution enacted thereunder shall apply to any off-street parking facility described therein unless the owner or operator has caused to be posted in a conspicuous place at each entrance to such off-street parking facility a notice not less than 17 by 22 inches in size with lettering not less than one inch in height, to the effect that such off-street parking facility is subject to public traffic regulations and control.

(c) No ordinance or resolution shall be enacted under subdivision (a) without a public hearing thereon and 10 days prior written notice to the owner and operator of the privately owned and maintained off-street parking facility involved.

(d) The department shall not be required to provide patrol or

enforce any provisions of this code on any privately owned and maintained off-street parking facility subjected to the provisions of this code under this section except those provisions applicable to private property other than by action under this section.

SEC. 5. Section 38001 is added to the Vehicle Code, to read:

38001. (a) Except as otherwise provided, the provisions of this division shall apply to off-highway motor vehicles, as defined in Section 38006, on lands, other than a highway, which are open and accessible to the public, except private lands under the immediate control of the owner or his agent where permission is required and has been granted to operate a motor vehicle. For the purposes of this division, the term "highway" does not include fire trails, logging roads, service roads, or other roughly graded trails and roads upon which vehicular travel by the public is permitted.

(b) Privately owned and maintained parking facilities that are generally open to the public are exempt from the provisions of this division unless such facilities are specifically declared subject to the provisions of this division by the procedure specified in Section 21107.8.

SEC. 6. Section 38006 is added to the Vehicle Code, to read:

38006. As used in this division, an "off-highway motor vehicle" is any of the following:

(a) A motor vehicle subject to the provisions of subdivision (a) of Section 38010.

(b) A motor vehicle registered under Section 4000, when such motor vehicle is operated on land to which this division has application.

(c) A motor vehicle owned or operated by a nonresident of this state, whether or not such motor vehicle is identified or registered in a foreign jurisdiction, when such motor vehicle is operated on lands to which this division has application.

SEC. 6.5. Section 38007 is added to the Vehicle Code, to read:

38007. The Department of the California Highway Patrol may prepare a course of instruction in off-highway motor vehicle safety, operation, and principles of environmental preservation, and for this purpose may consult with other public and private agencies and organizations. The department may make this course of instruction available to any association or organization desirous of presenting the course to any of its members or other members of the public who express an interest to attend.

SEC. 7. Section 38020 of the Vehicle Code is amended to read:

38020. Except as otherwise provided in this division, no person shall operate, transport, or leave standing any off-highway motor vehicle subject to identification under this code which is not registered under the provisions of Division 3 (commencing with Section 4000), unless it is identified under the provisions of this chapter. This section shall not apply to the operation, transportation, or leaving standing of an off-highway vehicle pursuant to a valid special permit.

SEC. 8. Section 38021 of the Vehicle Code is amended to read:

38021. (a) A manufacturer, dealer, or distributor, or his agent, owning or lawfully possessing any off-highway motor vehicle of a type otherwise required to be identified hereunder may operate or use such vehicle without an identification certificate and plate or device upon condition that each such vehicle is accompanied by a special permit issued to the manufacturer, dealer, or distributor as provided in this division.

(b) Persons licensed pursuant to Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 need not obtain such a permit provided the vehicle is operated or used under special plates issued to the licensee.

SEC. 9. Section 38027 of the Vehicle Code is amended to read:

38027. Motor-driven cycles issued a plate or device pursuant to Section 38160 may be moved, by nonmechanical means only, adjacent to a roadway, in such a manner so as to not interfere with traffic upon the highway, only for the purpose of gaining access to, or returning from, areas designed for the operation of off-highway vehicles, when no other route is available. The Department of Transportation or local authority may designate access routes leading to off-highway parks as suitable for the operation of off-highway vehicles, if such access routes are available to the general public only for pedestrian and off-highway motor vehicle travel.

SEC. 10. Section 38040 of the Vehicle Code is amended to read:

38040. Application for the original identification of a motor vehicle, other than a motorcycle, required to be identified pursuant to this division shall be made by the owner to the department upon the appropriate form furnished by it and shall contain all of the following:

(a) The true name and business or residence address of the owner, and legal owner, if any.

(b) The name of the county in which the owner resides.

(c) A description of the vehicle, including the following, insofar as it may exist:

(1) The make, model, and type of body.

(2) The vehicle identification number or any other number as may be required by the department.

(d) Such information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to identification.

SEC. 11. Section 38041 is added to the Vehicle Code, to read:

38041. Application for the original identification of a motorcycle shall be made by the owner to the department upon the appropriate form furnished by it, and shall contain:

(a) The true full name and business or residence address of the owner, and the legal owner, if any.

(b) The name of the county in which the owner resides.

(c) A description of the motorcycle including the following data insofar as it may exist:

(1) The make and type of body.

(2) The motor and frame numbers recorded exactly as stamped on the engine and frame, respectively, by the manufacturer, and any other identifying number of the motorcycle as may be required by the department.

(3) The date first sold by a manufacturer or dealer to a consumer.

(d) Such information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to identification.

(e) The department shall maintain a cross-index file of motor and frame numbers identified with it.

The application shall be accompanied by a tracing, tape lift, or photograph of the motor or frame numbers, or where such facsimile of the motor or frame numbers cannot be obtained, a verification of such numbers shall be required.

SEC. 12. Section 38070 of the Vehicle Code is amended to read:

38070. The department, upon identifying an off-highway motor vehicle subject to identification, shall issue a certificate of ownership to the legal owner and an identification certificate to the owner, or both to the owner if there is no legal owner.

SEC. 12.5. Section 38085 of the Vehicle Code is amended to read:

38085. (a) Every owner upon receipt of an identification certificate shall maintain the same or a facsimile copy thereof with the vehicle for which it is issued at all times when the vehicle is operated or transported.

(b) The provisions of this section do not apply when an identification certificate is necessarily removed from the vehicle for the purpose of application for renewal or transfer of identification.

SEC. 13. Section 38087 of the Vehicle Code is amended to read:

38087. (a) Upon payment of the fees specified in Section 38231, the department may issue to manufacturers, dealers, distributors, or their agents, a special permit to operate or use for the purpose of delivery, demonstration, or display, off-highway motor vehicles otherwise required to be identified under this division.

(b) Special permits issued pursuant to this section shall expire at midnight on the 30th day of June in the second calendar year following the year of issuance of such permit.

SEC. 14. Section 38100 of the Vehicle Code is amended to read:

38100. The provisions of Sections 4458, 4460, 4461, 4462, 4463, and 4464 shall be fully applicable to motor vehicles identified under this division and the terms "identification" and "identification certificate" shall have the same meaning as the terms "registration" and "registration card," respectively, as used in those sections.

SEC. 15. Section 38115 of the Vehicle Code is amended to read:

38115. Every motor vehicle identification and identification certificate issued pursuant to this division shall expire at midnight on the 30th day of June in the second calendar year following the year of issuance of such certificate. The department may upon payment of the proper fees renew such identification.

SEC. 16. Section 38120 of the Vehicle Code is amended to read:

38120. (a) Application for renewal of identification of off-highway motor vehicles subject to identification shall be made by the owner not later than midnight of the 30th day of June of the expiration year.

(b) Whenever any application for identification or transfer of ownership of an off-highway motor vehicle subject to identification is filed with the department between June 1 and June 30 of the year of expiration, the application shall be accompanied by the full renewal fees in addition to any other fees then due and payable.

(c) Whenever an application for identification or transfer of ownership of an off-highway motor vehicle subject to identification is filed with the department between January 1 and May 31 of the year of expiration, the application may be accompanied by full renewal fees in addition to any other fees then due and payable, which renewal fees shall be for the two-year period following June 30th of the year in which paid.

SEC. 17. Section 38122 of the Vehicle Code is amended to read:

38122. When the identification of an off-highway motor vehicle has expired at midnight on the 30th day of June and the vehicle is not thereafter operated, used, or transported on public property or private property in such a manner as to subject the vehicle to identification, then any application made subsequent to the expiration date of the identification shall be accompanied by a certificate of nonoperation to avoid payment of penalties otherwise due.

SEC. 18. Section 38150 of the Vehicle Code is amended to read:

38150. The department may refuse the identification or renewal or transfer of identification of an off-highway motor vehicle subject to identification in any of the following circumstances:

(a) If the department is satisfied that the applicant is not entitled thereto under this code.

(b) If the applicant has failed to furnish the department with information required in the application or reasonable additional information required by the department.

(c) If the department determines that the applicant has made or permitted unlawful use of any identification certificate, certificate of ownership, identification plates, or other identifying indicia.

SEC. 19. The heading of Chapter 3 (commencing with Section 38195) of Division 16.5 of the Vehicle Code is amended and renumbered to read:

Article 8. Transfers of Title or Interest

SEC. 20. The heading of Chapter 4 (commencing with Section 38225) of Division 16.5 of the Vehicle Code is amended and renumbered to read:

Article 9. Identification Fees

SEC. 21. Section 38225 of the Vehicle Code is amended to read:

38225. (a) A service fee of five dollars ($5) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee specified in subdivision (a), a special fee of six dollars ($6) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device. All fees received by the department pursuant to this subdivision, and all day use, overnight use, or annual or biennial use fees for designated off-highway state recreation areas received by the Department of Parks and Recreation, shall be deposited in the Off-Highway Vehicle Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, motorcycles, and snowmobiles. All money in the Off-Highway Vehicle Fund is continuously appropriated for expenditure by the Department of Parks and Recreation for the purposes specified in Section 38270.

SEC. 22. Section 38240 of the Vehicle Code is amended to read:

38240. (a) The State Controller shall allocate the fees collected under Section 38230 in July and January of each fiscal year in the same manner fees are allocated under Section 11005 of the Revenue and Taxation Code.

(b) It is the intent of the Legislature that funds collected under Section 38230 be used for any one or more of the following purposes:

(1) Planning, acquiring, developing, constructing, maintaining, or administering, for the use of off-highway motor vehicles, trails, areas, or other facilities.

(2) Controlling the operation of motor vehicles in areas off the highways where the operation of motor vehicles is restricted or prohibited.

(3) Otherwise carrying out the provisions of this division.

SEC. 23. Article 10 (commencing with Section 38270) is added to Chapter 3 of Division 16.5 of the Vehicle Code, to read:

Article 10. Off-Highway Vehicle Fund Expenditures

38270. The Department of Parks and Recreation shall, utilizing special fee funds in the Off-Highway Vehicle Fund created by subdivision (b) of Section 38225, revenue transferred from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Fund created by subdivision (b) of Section 38225, revenue transferred from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Fund, and unexpended service fees, carry out programs of planning, acquisition, development, construction, maintenance, administration, and conservation of trails and areas for the use of off-highway motor vehicles. Such funds, revenues and fees shall be allocated as follows:

(a) An amount, not to exceed 50 percent of the special fee and Motor Vehicle Fuel Account transfer revenues of the Off-Highway Vehicle Fund, shall be made available for grants to cities, counties, and appropriate special-purpose districts for recreation projects for off-highway motor vehicles in accordance with local government planning and the statewide plans for trails for recreational motor vehicles developed by the Department of Parks and Recreation. Local governments, to be eligible for these funds, shall provide matching funds, or the value of services, material, or property used, in an amount equal to, but not less than 25 percent of, the total expense of the off-highway motor vehicle facility.

Portions of this amount not committed to cities, counties, and appropriate special purpose districts shall be available for the Department of Parks and Recreation to enter into cooperative agreement with federal agencies for acquisition projects, or development projects, or both, for recreational use of off-highway vehicles.

(b) The remainder of the special fee funds, Motor Vehicle Fuel Account transfer revenues, and all unexpended service fees, and all use fee funds, contained in the Off-Highway Vehicle Fund, shall be used by the Department of Parks and Recreation for purposes of funding recreational areas for the use of such vehicles and trails for the use of such vehicles.

SEC. 24. Chapter 5 (commencing with Section 38275) of Division 16.5 of the Vehicle Code is repealed.

SEC. 26. Chapter 5 (commencing with Section 38280) is added to Division 16.5 of the Vehicle Code, to read:

CHAPTER 5. OFF-HIGHWAY VEHICLE OPERATING RULES

Article 1. Traffic Signs, Signals, and Markings

38280. Federal, state, or local authorities having jurisdiction over public lands may place or cause to be placed and maintained, such appropriate signs, signals and other traffic control devices as may be necessary to properly indicate and carry out any provision of law or any duly adopted regulation of such governmental authority or to warn or guide traffic.

38285. Only those signs, signals, markings, or devices that conform to the uniform standards and specifications promulgated by the Department of Transportation shall be placed as provided in Section 38280.

Special signs, signals, markings, or devices may be used on a temporary basis for purposes of directing traffic on and at sanctioned events conducted on public lands with permission of the agency having administrative jurisdiction over such lands.

38286. The provisions of Article 3 (commencing with Section 38305), Article 4 (commencing with Section 38312), Article 5 (commencing with Section 38316), and Section 38319 of this chapter,

shall not apply to a motor vehicle being operated in an organized racing event which is conducted under the auspices of a recognized sanctioning body or by permit issued by the governmental authority having jurisdiction.

38300. It is unlawful for the driver of any vehicle to disobey any sign, signal, or traffic control device placed or maintained pursuant to Section 38280.

38301. It is unlawful to operate a vehicle in violation of special regulations which have been promulgated by the governmental agency having jurisdiction over public lands, including, but not limited to, regulations governing access, routes of travel, plants, wildlife, wildlife habitat, water resources, and historical sites.

38302. It is unlawful for any person to place or erect any sign, signal, or traffic control device for off-highway traffic upon public lands unless authorized by law.

Article 2. Operating Controls

38304. The operator of an off-highway motor vehicle shall be able to reach and operate all controls necessary to safely operate the vehicle.

Article 3. Speed Laws

38305. No person shall drive an off-highway motor vehicle at a speed greater than is reasonable or prudent and in no event at a speed which endangers the safety of other persons or property.

38310. The prima facie speed limit within 50 feet of any campground, campsite, or concentration of people or animals shall be 15 miles per hour unless changed as authorized by this code and, if so changed, only when signs have been erected giving notice thereof.

Article 4. Turning and Starting

38312. No person shall place in motion an off-highway motor vehicle that is stopped, standing, or parked until such movement can be made with reasonable safety.

38314. No person shall turn an off-highway motor vehicle from a direct course or move right or left until such movement can be made with reasonable safety.

Article 5. Reckless Driving

38316. (a) It is unlawful for any person to drive any off-highway motor vehicle with a willful and wanton disregard for the safety of other persons or property.

(b) Any person who violates this section shall, upon conviction thereof, be punished by imprisonment in the county jail for not less

than five days nor more than 90 days or by fine of not less than twenty-five dollars ($25) nor more than two hundred fifty dollars ($250) or by both such fine and imprisonment, except as provided in Section 38317.

38317. Whenever reckless driving of an off-highway motor vehicle proximately causes bodily injury to any person, the person driving the vehicle shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or by both such fine and imprisonment.

38318. (a) Any person who throws any substance at an off-highway motor vehicle or occupant thereof is guilty of a misdemeanor.

(b) Any person who with intent to do great bodily injury maliciously and willfully throws or projects any rock, brick, bottle, metal, or other missile or projects any other substance capable of doing serious bodily harm or discharges a firearm at such vehicle or occupant thereof is guilty of a felony and upon conviction shall be punished by imprisonment for not less than one year nor more than five years in the state prison.

38318.5. Any person who, with intent to do great bodily injury, erects or places any cable, chain, rope, fishing line or other similar material which is unmarked, or intentionally placed, or both, for malicious purpose is guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one year nor more than five years in the state prison.

Article 6. Littering and Environmental Protection

38319. No person shall operate, nor shall an owner permit the operation of, an off-highway motor vehicle in a manner likely to cause malicious or unnecessary damage to the land, wildlife, wildlife habitat or vegetative resources.

38320. (a) No person shall throw or deposit, nor shall the registered owner or the driver, if such owner is not then present in the vehicle, aid or abet in the throwing or depositing, upon any area, public or private, any bottle, can, garbage, glass, nail, offal, paper, wire, any substance likely to injure or kill wild or domestic animal or plant life or damage traffic using such area, or any noisome, nauseous or offensive matter of any kind.

(b) No person shall place, deposit or dump, or cause to be placed, deposited or dumped, any rocks or dirt in or upon any area, public or private, without the consent of the property owner or public agency having jurisdiction over the area.

(c) Any person who violates this section shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars ($25). No part of such fine shall be suspended. The court may permit the fine required by this section to be paid in installments if the court

determines that the defendant is unable to pay the fine in one lump sum.

38321. (a) Any person who drops, dumps, deposits, places, or throws, or causes or permits to be dropped, dumped, deposited, placed, or thrown, upon any area, any material described in Section 38320, shall immediately remove the material or cause it to be removed.

(b) If such person fails to comply with the provisions of this section, the governmental agency responsible for the maintenance of the area, or the property owner of the land on which the material has been deposited, may remove such material and collect, by civil action, if necessary, the actual cost of the removal operation in addition to any other damages authorized by law from the person who did not comply with the requirements of this section.

SEC. 27. Chapter 6 (commencing with Section 38300) of Division 16.5 of the Vehicle Code is repealed.

SEC. 28. Chapter 6 (commencing with Section 38325) is added to Division 16.5 of the Vehicle Code, to read:

CHAPTER 6. EQUIPMENT OF OFF-HIGHWAY VEHICLES

Article 1. General Provisions

38325. The provisions of this chapter shall apply to all off-highway motor vehicles, as defined in Section 38006, when operated in areas in which this division has application.

38330. It is unlawful to operate any vehicle or combination of vehicles which is in an unsafe condition, which is not equipped as required by this chapter or the equipment regulations of the governmental agency having jurisdiction over public lands, or which is not safely loaded.

Article 2. Lighting Equipment

38335. When operated from one-half hour after sunset to one-half hour before sunrise, each motor vehicle shall be equipped with at least one lighted white headlamp directed toward the front of the vehicle. Such lamp shall be of an intensity sufficient to reveal persons and vehicles at a distance of at least 200 feet.

38345. When operated from one-half hour after sunset to one-half hour before sunrise, each motor vehicle which is not in combination with any other vehicle shall be equipped with at least one lighted red taillamp which shall be clearly visible from the rear.

(a) Every such vehicle or vehicles at the end of a combination of vehicles shall be equipped with one lighted red taillamp when operated from one-half hour after sunset to one-half hour before sunrise.

04075 293485 397

Article 3. Brakes

38355. (a) Except as provided in subdivision (b), every motor vehicle shall be equipped with a service brake system which is in good working order and adequate to control the movement of, and to stop and hold to the limit of traction of, such vehicle or combination of vehicles under all conditions of loading and upon any grade on which it is operated.

(b) Any motor vehicle, such as an air-cushioned vehicle, which is unable to comply with the requirements of this section due to the method of operation, is exempt, if the operator is able to exercise safe control over the movement of such vehicle.

Article 4. Equipment

38365. (a) Every off-highway motor vehicle, as defined in Section 38006, shall at all times be equipped with an adequate muffler in constant operation and properly maintained so as to meet the requirements of Section 38370, and no muffler or exhaust system shall be equipped with a cutout, bypass, or similar device.

(b) The provisions of subdivision (a) shall not be applicable to vehicles being operated off the highways in an organized racing or competitive event upon a closed course or in a hill climb or drag race, which is conducted under the auspices of a recognized sanctioning body or by permit issued by the local governmental authority having jurisdiction.

38370. (a) The Department of Motor Vehicles shall not identify a new off-highway motor vehicle subject to identification which produces a maximum noise exceeding the following noise limit at a distance of 50 feet from the centerline of travel under test procedures established by the Department of the California Highway Patrol.

(1) Any such vehicle manufactured before January 1, 1973	92 dbA
(2) Any such vehicle manufactured on or after January 1, 1973 and before January 1, 1975	88 dbA
(3) Any such vehicle manufactured on or after January 1, 1975	86 dbA

(b) The department may accept a dealer's certificate as proof of compliance with this section.

(c) Test procedures for compliance with this section shall be established by the Department of the California Highway Patrol, taking into consideration the test procedures of the Society of Automotive Engineers.

(d) No person shall sell or offer for sale a new off-highway motor vehicle subject to identification which produces a maximum noise exceeding the noise limits set forth in subdivision (a) for which noise emission standards or regulations have not been adopted by the Administrator of the Environmental Protection Agency pursuant to

the Federal Noise Control Act of 1972 (P.L. 92-574).

(e) No person shall sell or offer for sale a new off-highway motor vehicle subject to identification which produces noise that exceeds or in any way violates the noise emission standards or regulations adopted for such a motor vehicle by the Administrator of the Environmental Protection Agency pursuant to the Federal Noise Control Act of 1972 (P.L. 92-574).

(f) As used in this section, the term "identify" is equivalent to the term "licensing" as used in Section 6(e)(2) of the Federal Noise Control Act of 1972 (P.L. 92-574).

38380. (a) Because of specialized conditions such as fire hazard, public safety or other circumstances, any local authority, or state or federal agencies having control over public lands may require that vehicles being operated off highway be equipped with additional equipment.

(b) When such additional equipment is required in a specific location, the governmental agency having jurisdiction over that location shall insure that such regulations are posted in a manner that operators of off-highway motor vehicles using those locations will be aware of the special requirements.

Article 5. Emission Control Equipment

38390. No person shall operate or maintain in a condition of readiness for operation any off-highway motor vehicle which is required to be equipped with a motor vehicle pollution control device under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code or with any other certified motor vehicle pollution control device required by any other state law or any rule or regulation adopted pursuant to such law, or required to be equipped with a motor vehicle pollution control device pursuant to the Clean Air Act (42 U.S.C. 1857 et seq.) and the standards and regulations promulgated thereunder, unless it is equipped with the required motor vehicle pollution control device which is correctly installed and in operating condition. No person shall disconnect, modify, or alter any such required device. Notwithstanding Section 43107 of the Health and Safety Code, this section shall apply only to off-highway motor vehicles of the 1978 or later model year.

38391. No person shall install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, any required off-highway motor vehicle pollution control device or system which alters or modifies the original design or performance of any such motor vehicle pollution control device or system.

38392. When the court finds that a person has willfully violated any provision of this article, such person shall be fined the maximum amount that may be imposed for such an offense, and no part of the fine may be suspended.

"Willfully", as used in this section, has the same meaning as the

meaning of that word prescribed in Section 7 of the Penal Code.

38393. No person shall operate an off-highway motor vehicle after notice by a traffic officer or other authorized public officer that such vehicle is not equipped with the required certified motor vehicle pollution control device correctly installed in operating condition, except as may be necessary to return the vehicle to the residence or place of business of the owner or driver or to a garage, until the vehicle has been properly equipped with such a device.

38394. The notice to appear issued or complaint filed for a violation of any provision of this article shall require that the person to whom the notice to appear is issued or against whom the complaint is filed produce proof of correction pursuant to Section 40150.

38395. This article shall not apply to an alteration, modification, or modifying device, apparatus, or mechanism found by resolution of the State Air Resources Board either:

(a) To not reduce the effectiveness of any required off-highway motor vehicle pollution control device; or

(b) To result in emissions from any such modified or altered off-highway vehicle which are at levels which comply with existing state or federal standards for that model year of the vehicle being modified or converted.

38396. The provisions of this article apply to off-highway motor vehicles of the United States or its agencies, to the extent authorized by federal law.

38397. Except as provided in Section 38390, this article shall be applicable to all off-highway motor vehicles, whether or not subject to identification pursuant to this division and without limitation by the exceptions contained in Section 38001, and to all off-highway motor vehicles operated or maintained in a condition of readiness for operation on private or public property.

SEC. 29. Section 40000.24 is added to the Vehicle Code, to read:

40000.24. A violation of any of the following provisions shall constitute a misdemeanor and not an infraction:

Section 38316, relating to reckless driving.

Section 38317, relating to reckless driving with injury.

Section 38319, relating to protection of the environment.

Section 38320, relating to the depositing of matter.

SEC. 29.5. It is the intent of the Legislature, if this bill and Assembly Bill No. 4140 are both chaptered and become effective January 1, 1977, both bills amend Section 21107.8 of the Vehicle Code, and this bill is chaptered after Assembly Bill No. 4140, that the amendments to Section 21107.8 proposed by both bills be given effect and incorporated in Section 21107.8 in the form set forth in Section 4.5 of this act. Therefore, Section 4.5 of this act shall become operative only if this bill and Assembly Bill No. 4140 are both chaptered and become effective January 1, 1977, both amend Section 21107.8, and this bill is chaptered after Assembly Bill No. 4140, in which case Section 4 of this act shall not become operative.

SEC. 30. 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 1094

An act to amend Sections 12007, 12081, 12101, and 12103 of the Health and Safety Code, relating to explosives.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 12007 of the Health and Safety Code is amended to read:

12007. (a) For the purposes of this part, the term "issuing authority" shall mean either the sheriff of a county, or the chief or other head of a municipal police department of any city or city and county, or the chief of a fire department or fire protection agency, and their authorized representatives, provided that, in the event the designated issuing authority is the chief of a fire department or fire protection agency, such fire department or fire protection agency is organized with regularly paid full-time personnel. The governing body of any county, city, or city and county shall designate one of the above as the issuing authority within its jurisdiction and shall notify the State Fire Marshal of the person so designated.

(b) If the governing body of any county, city, or city and county does not designate an issuing authority pursuant to subdivision (a), the State Fire Marshal shall designate the sheriff of the county as the issuing authority.

SEC. 2. Section 12081 of the Health and Safety Code is amended to read:

12081. Except as limited by Chapter 6 (commencing with Section 140), Division 1 of the Labor Code, the State Fire Marshal shall prepare and adopt, in accordance with the provisions of Chapter 4.5 (commencing at Section 11371), Part 1, Division 3, Title 2 of the Government Code, reasonable regulations which are not in conflict with this part, relating to the sale, use, handling, possession, and storage of explosives.

The regulations adopted by the State Fire Marshal shall:

(a) Make reasonable allowances for storage facilities in existence when the regulations become effective. No allowance, however, shall

be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.

(b) Be based on performance standards wherever possible.

(c) Make reasonable allowances for the storage of gunpowder for commercial and private use. No allowance, however, shall be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.

(d) Set uniform requirements for the use and handling of explosives that would apply statewide.

The regulations adopted by the State Fire Marshal pursuant to this section shall apply uniformly throughout the State of California, and no city, county, city and county, or other political subdivision of this state, including, but not limited to, a chartered city, county, or city and county, shall adopt or enforce any ordinance or regulation which is inconsistent with the provisions of this section.

In making the regulations the State Fire Marshal shall consider as evidence of generally accepted safety standards the publications of the National Fire Protection Association, the United States Bureau of Mines, the United States Department of Defense, and the Institute of Makers of Explosives.

SEC. 3. Section 12101 of the Health and Safety Code is amended to read:

12101. (a) No person shall do any one of the following without first having made application for and received a permit in accordance with the provisions of this section:

(1) Manufacture explosives.

(2) Sell, furnish, or give away explosives.

(3) Receive, store, or possess explosives.

(4) Transport explosives.

(5) Use explosives.

(6) Operate a terminal for handling explosives.

(7) Park or leave standing any vehicle carrying explosives, except when parked or left standing in or at a safe stopping place designated as such by the Department of the California Highway Patrol under the provisions of Division 14 (commencing with Section 31600) of the Vehicle Code.

(b) Application for a permit shall be made to the appropriate issuing authority.

(c) A permit shall be obtained from the issuing authority having the responsibility in the area where the activity, as specified in subdivision (a) of this section, is to be conducted.

If the person holding a valid permit for the use or storage of explosives desires to purchase or receive explosives in a jurisdiction other than that of intended use or storage, such person shall first present such permit to the issuing authority in the jurisdiction of

purchase or receipt for endorsement. Such issuing authority may include any reasonable restrictions or conditions which he finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives within his jurisdiction. If, for any reason, such issuing authority refuses to endorse the permit previously issued in the area of intended use or storage, such authority shall immediately notify both the issuing authority who issued the permit and the State Bureau of Criminal Identification and Investigation in Sacramento of the fact of such refusal and the reasons for such refusal.

Every person who sells, gives away, delivers, or otherwise disposes of explosives to another person shall first satisfy himself that the person receiving the explosives has a permit valid for that purpose. When the permit to receive explosives indicates that the intended storage or use of the explosives is other than in that area in which the permittee receives the explosives, the person who sells, gives away, delivers, or otherwise disposes of the explosives shall insure that the permit has been properly endorsed by a local issuing authority and, further, shall immediately send a copy of the record of sale to the issuing authority who originally issued the permit in the area of intended storage or use. The issuing authority in the area in which the explosives are received or sold shall not have the authority to issue a permit for the possession, use, or storage of explosives in an area not within his jurisdiction.

(d) In the event any person desires to receive explosives for use in an area outside of this state, a permit to receive such explosives shall be obtained from the State Fire Marshal.

(e) A permit may include any restrictions or conditions which the issuing authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives.

(f) A permit shall remain valid only until such time as the act or acts authorized by the permit are performed, but in no event shall the permit remain valid for a period longer than one year from the date of issuance of the permit.

(g) Any valid permit which authorizes the performance of any act shall not constitute authorization for the performance of any act not stipulated in the permit.

SEC. 4. Section 12103 of the Health and Safety Code is amended to read:

12103. Application for a permit, as required under Section 12101, shall be made by filing a statement on forms prescribed by the State Fire Marshal. Such statement shall contain, but shall not necessarily be limited to, the following:

(a) The name and address of the applicant.

(b) The name and address of the employee or authorized representatives designated by the applicant as being responsible for the use, handling, storage, possession, or transportation of explosives for the applicant and whether the employee or authorized

representative has been issued a blaster's license by the Division of Industrial Safety to use or handle explosives.

(c) The place where, and the purpose for which, the explosives are intended to be used, handled, stored, or possessed.

(d) The type and amount of explosives for which application is made.

(e) The signature of the applicant.

(f) The number of times purchases may be made and the frequency of such purchases.

(g) The routes, highways, and stopping places intended to be utilized in transporting the explosives.

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 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 the heading of Article 5 (commencing with Section 41950) of Chapter 3 of Part 4 of Division 26 of, and to amend and renumber Section 39068.6 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. The heading of Article 5 (commencing with Section 41950) of Chapter 3 of Part 4 of Division 26 of the Health and Safety Code is amended to read:

Article 5. Gasoline Vapor Control

SEC. 2. Section 39068.6 of the Health and Safety Code is amended and renumbered to read:

41954. (a) The state board shall, by March 1, 1976, adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage, transport, and transfer operations, with performance standards which the state board determines are reasonable and necessary to achieve or maintain any applicable ambient air quality standard.

(b) Notwithstanding Section 34002 of the Vehicle Code, the state

board shall adopt test procedures to determine the compliance of cargo tanks on tank vehicles used to transport gasoline with vapor emission standards the state board determines are reasonable and necessary to achieve or maintain any applicable ambient air quality standard. The performance standards and test procedures adopted by the state board shall be consistent with the regulations adopted by the State Fire Marshal pursuant to Division 14.7 (commencing with Section 34001) of the Vehicle Code.

(c) The state board shall certify any gasoline vapor control system, or cargo tank on any tank vehicle used to transport gasoline, upon its determination that the system or cargo tank, if properly installed and maintained, will meet the requirements enumerated in subdivision (a) or (b), as the case may be. The state board shall specify the specifications used for issuing such certification. After the state board has certified such a system or cargo tank, if circumstances beyond the control of the state board cause the system or cargo tank to no longer meet the specified certification specifications, the state board may, as appropriate, revoke or modify its prior certification.

(d) The state board may test, or contract for the testing of, gasoline vapor control systems and cargo tanks on tank vehicles in order to certify them.

(e) The state board shall charge a reasonable fee for certification, not to exceed the state board's estimated costs therefor. Payment of such fee shall be made a condition of certification.

(f) On or after July 1, 1976, no person shall install a gasoline vapor control system unless it has been certified by the state board.

(g) On or after July 1, 1977, no person shall operate, or allow the operation of, a tank vehicle transporting gasoline unless the cargo tank thereon has been certified by the state board and is installed and maintained in compliance with the state board's requirements for certification. Tank vehicles used exclusively to service gasoline storage tanks which are not required to have gasoline vapor controls may, upon application by the owner or operator of the vehicle, be exempted by the state board from the certification requirement.

(h) To the extent authorized by other provisions of law, any district may adopt stricter procedures and performance standards than those adopted by the state board pursuant to subdivision (a). On and after July 1, 1977, performance standards of any district for cargo tanks on tank vehicles used to transport gasoline shall be identical with those adopted by the state board therefor, and no district shall adopt test procedures for, or require certification of, the cargo tanks.

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 government entities which, in the aggregate, do not result in significant

identifiable cost changes.

CHAPTER 1096

An act to amend Sections 9105, 21107.8, 22511.5, 22511.7, and 22511.8 of, and to add Section 22507.8 to, the Vehicle Code, relating to disabled persons, and making an appropriation therefor.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 9105 of the Vehicle Code is amended to read:

9105. (a) The fees specified in this code except fees for duplicate plates, certificates, or cards need not be paid for any of the following vehicles, which are of a type subject to registration under this code, and which are not used for transportation for hire, compensation, or profit, when owned by any veteran who has lost, or has lost use of, two or more limbs, or one eye and any limb, or who has suffered permanent blindness as defined in Section 19153 of the Welfare and Institutions Code, as a result of injury or disease suffered while on active service with the armed forces of the United States:

(1) Any passenger motor vehicle.

(2) Any motorcycle.

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

The exemption granted by this subdivision shall not extend to more than one vehicle owned by any such veteran.

(b) Any disabled veteran who qualifies for issuance of, and has been issued, a distinguishing license plate, may apply to the Department of Motor Vehicles for issuance of a distinguishing placard. Such placard may be used in lieu of the distinguishing license plate for parking purposes when displayed on the driver's side dashboard of a vehicle. The placard shall be at least 6 inches by 12 inches in size, and blue in color.

(c) The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to that department for issuance of placards as provided in subdivision (b). The Department of Motor Vehicles may establish procedures for the issuance of such placard.

SEC. 1.5. Section 21107.8 of the Vehicle Code is amended to read:

21107.8. (a) Any city or county may, by ordinance or resolution, find and declare that there are privately owned and maintained offstreet parking facilities as described in such ordinance or resolution within the city or county that are generally held open for use of the public for purposes of vehicular parking. Upon enactment

by a city or county of such an ordinance or resolution, Sections 22350, 22507.8, 23103, and 23109 shall apply to any such privately owned and maintained offstreet parking facilities, except as provided in subdivision (b).

(b) Notwithstanding the provisions of subdivision (a), no ordinance or resolution enacted thereunder shall apply to any offstreet parking facility described therein unless the owner or operator has caused to be posted in a conspicuous place at each entrance to such offstreet parking facility a notice not less than 17 by 22 inches in size with lettering not less than one inch in height, to the effect that such offstreet parking facility is subject to public traffic regulations and control.

(c) No ordinance or resolution shall be enacted under subdivision (a) without a public hearing thereon and 10 days prior written notice to the owner and operator of the privately owned and maintained offstreet parking facility involved.

(d) The department shall not be required to provide patrol or enforce any provisions of this code on any privately owned and maintained offstreet parking facility subjected to the provisions of this code under this section except those provisions applicable to private property other than by action under this section.

SEC. 1.6. Section 21107.8 of the Vehicle Code is amended to read:

21107.8. (a) Any city or county may, by ordinance or resolution, find and declare that there are privately owned and maintained off-street parking facilities as described in such ordinance or resolution within the city or county that are generally held open for use of the public for purposes of vehicular parking. Upon enactment by a city or county of such an ordinance or resolution, Sections 22350, 22507.8, 23103, and 23109 shall apply to any such privately owned and maintained off-street parking facilities, except as provided in subdivision (b). In addition, if specifically stated in such ordinance or resolution, the provisions of Division 16.5 (commencing with Section 38000) shall apply to any such facilities, except as provided in subdivision (b).

(b) Notwithstanding the provisions of subdivision (a), no ordinance or resolution enacted thereunder shall apply to any off-street parking facility described therein unless the owner or operator has caused to be posted in a conspicuous place at each entrance to such off-street parking facility a notice not less than 17 by 22 inches in size with lettering not less than one inch in height, to the effect that such off-street parking facility is subject to public traffic regulations and control.

(c) No ordinance or resolution shall be enacted under subdivision (a) without a public hearing thereon and 10 days prior written notice to the owner and operator of the privately owned and maintained off-street parking facility involved.

(d) The department shall not be required to provide patrol or enforce any provisions of this code on any privately owned and

maintained off-street parking facility subjected to the provisions of this code under this section except those provisions applicable to private property other than by action under this section.

SEC. 2. Section 22507.8 is added to the Vehicle Code, to read:

22507.8. (a) It is unlawful for any person to park or leave standing any vehicle in a stall or space designated for physically handicapped persons, if, immediately adjacent to and visible from such stall or space, there is posted a sign consisting of a profile view of a wheelchair with occupant in white on a blue background, unless the vehicle displays either one of the distinguishing license plates or a placard issued pursuant to Section 22511.5 or to disabled veterans, as specified in Section 9105.

(b) The provisions of subdivision (a) shall apply to all offstreet parking facilities owned or operated by the state, and to all offstreet parking facilities owned or operated by a local authority if so designated by the local authority by ordinance or resolution. The provisions of subdivision (a) shall also apply to any privately owned and maintained offstreet parking facility as provided in Section 21107.8.

SEC. 3. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) Any person who has lost, or has lost the use of, one or more limbs or both hands, or is so severely disabled as to be unable to move without the aid of a mechanical device, shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section shall have no application to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to such a disabled person, but which is used primarily to transport such disabled person and which would otherwise qualify for such distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by that department.

(b) Any person who qualifies for issuance of a distinguishing license plate may apply to the Department of Motor Vehicles for issuance of a distinguishing placard. Such placard may be used in lieu of the distinguishing license plate for parking purposes when displayed on the driver's side dashboard of a vehicle. The placard shall be at least 6 inches by 12 inches in size, and blue in color.

(c) The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to that department for issuance of such placards. The Department of Motor Vehicles may establish procedures for the issuance of such placards.

SEC. 4. Section 22511.7 of the Vehicle Code is amended to read:

22511.7. Local authorities may by ordinance or resolution designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or a placard issued pursuant to Section 22511.5 or to disabled veterans, as specified in Section 9105. Whenever a local authority so designates a parking space, it shall be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space. In addition to blue paint, the space may also be indicated by signs or other suitable means.

The provisions of this section shall not be construed to restrict the privilege granted to disabled veterans by Section 22511 and to disabled persons by Section 22511.5.

SEC. 5. Section 22511.8 of the Vehicle Code is amended to read:

22511.8. Any local authority, by ordinance or resolution, and any person in lawful possession of an offstreet parking facility may designate stalls or spaces in an offstreet parking facility owned or operated by the local authority or person for the exclusive use of vehicles which display a distinguishing license plate or a placard issued pursuant to Section 22511.5 or to disabled veterans, as specified in Section 9105. Such designation shall be made by posting immediately adjacent to, and visible from, each stall or space, a sign consisting of a profile view of a wheelchair with occupant in white on a blue background.

The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, as the case may be, and any local authority owning or operating an offstreet parking facility, may cause the removal, from a stall or space designated for physically handicapped persons in such facility to the nearest public garage, of any vehicle not displaying one of the distinguishing placards or license plates specified in this section if there is posted immediately adjacent to, and visible from, such stall or space, or, if there is posted, in a conspicuous place at each entrance to the offstreet parking facility, not less than 17 by 22 inches in size with lettering not less than one inch in height, a sign which clearly and conspicuously states the following: "Unauthorized vehicles not displaying distinguishing placards or license plates issued for physically handicapped persons will be towed away at owner's expense. Towed vehicles may be reclaimed at _____ or by telephoning _____ (Address) (Telephone number of local law enforcement agency)."

The provisions of this section shall not be construed to restrict the privilege granted to disabled veterans by Section 22511 and to disabled persons by Section 22511.5.

SEC. 6. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) Any person who has lost, or has lost the use of, one or more limbs or both hands, who is so severely disabled as to be unable to move without the aid of a mechanical device, or who suffers from lung disease to such an extent that his forced

(respiratory) expiratory volume one second when measured by spirometry is less than one liter or his arterial oxygen tension (Po2) is less than 60 mm/hg on room air at rest, shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section shall have no application to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to such a disabled person, but which is used primarily to transport such disabled person and which would otherwise qualify for such distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by that department. The department, prior to issuing a distinguishing license plate for a person who indicates that he suffers from lung disease to the extent specified in this section, may require a certificate, signed by a physician licensed to practice medicine, stating that such person does suffer from lung disease to such an extent.

(b) Any person who qualifies for issuance of a distinguishing license plate may apply to the Department of Motor Vehicles for issuance of a distinguishing placard. Such placard may be used in lieu of the distinguishing license plate for parking purposes when displayed on the driver's side dashboard of a vehicle. The placard shall be at least 6 inches by 12 inches in size, and blue in color.

(c) The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to that department for issuance of such placards. The Department of Motor Vehicles may establish procedures for the issuance of such placards.

SEC. 6.5. It is the intent of the Legislature, if this bill and Assembly Bill No. 4075 are both chaptered and become effective January 1, 1977, both bills amend Section 21107.8 of the Vehicle Code and this bill is chaptered after Assembly Bill No. 4075, that the amendments to Section 21107.8 proposed by both bills be given effect and incorporated in Section 21107.8 in the form set forth in Section 1.6 of this act. Therefore, Section 1.6 of this act shall become operative only if this bill and Assembly Bill No. 4075 are both chaptered and become effective January 1, 1977, both amend Section 21107.8, and this bill is chaptered after Assembly Bill No. 4075, in which case Section 1.5 of this act shall not become operative.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 1585 are both chaptered and become effective January 1, 1977, both bills amend Section 22511.5 of the Vehicle Code, and this bill is chaptered after Senate Bill No. 1585, that the amendments to Section 22511.5 proposed by both bills be given effect and

incorporated in Section 22511.5 in the form set forth in Section 6 of this act. Therefore, Section 6 of this act shall become operative only if this bill and Senate Bill No. 1585 are both chaptered and become effective January 1, 1977, both amend Section 22511.5, and this bill is chaptered after Senate Bill No. 1585, in which case Section 3 of this act shall not become operative.

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.

CHAPTER 1097

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

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

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

22511.5. Any person who has lost, or has lost the use of, one or more limbs or both hands, who is so severely disabled as to be unable to move without the aid of a mechanical device, or who suffers from lung disease to such an extent that his forced (respiratory) expiratory volume one second when measured by spirometry is less than one liter or his arterial oxygen tension (Po2) is less than 60 mm/hg on room air at rest, shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section shall have no application to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to such disabled person, but which is used primarily to transport such disabled person and which would otherwise qualify for such distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to regulations adopted by that department. The department, prior to issuing a distinguishing license plate for a person who indicates that he suffers from lung disease to the extent

specified in this section, may require a certificate, signed by a physician licensed to practice medicine, stating that such person does suffer from lung disease to such an extent.

SEC. 2. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) Any person who has lost, or has lost the use of, one or more limbs or both hands, who is so severely disabled as to be unable to move without the aid of a mechanical device, or who suffers from lung disease to such an extent that his forced (respiratory) expiratory volume one second when measured by spirometry is less than one liter or his arterial oxygen tension (Po2) is less than 60 mm/hg on room air at rest, shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section shall have no application to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to such a disabled person, but which is used primarily to transport such disabled person and which would otherwise qualify for such distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by that department. The department, prior to issuing a distinguishing license plate for a person who indicates that he suffers from lung disease to the extent specified in this section, may require a certificate, signed by a physician licensed to practice medicine, stating that such person does suffer from lung disease to such an extent.

(b) Any person who qualifies for issuance of a distinguishing license plate may apply to the Department of Motor Vehicles for issuance of a distinguishing placard. Such placard may be used in lieu of the distinguishing license plate for parking purposes when displayed on the driver's side dashboard of a vehicle. The placard shall be at least 6 inches by 12 inches in size, and blue in color.

(c) The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to that department for issuance of such placards. The Department of Motor Vehicles may establish procedures for the issuance of such placards.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 4140 are both chaptered and become effective January 1, 1977, both bills amend Section 22511.5 of the Vehicle Code, and this bill is chaptered after Assembly Bill No. 4140, that the amendments to Section 22511.5 proposed by both bills be given effect and incorporated in Section 22511.5 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. 4140 are both chaptered and become

41585 294115 451

effective January 1, 1977, both amend Section 22511.5, and this bill is chaptered after Assembly Bill No. 4140, in which case Section 1 of this act shall not become operative.

CHAPTER 1098

An act to amend Section 22601 of the Education Code, relating to the California State University and Colleges.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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; a representative of the alumni associations of the state university and colleges, selected for a two-year term by the alumni council, California State University and Colleges, which representative shall not be an employee of the California State University and Colleges during the two-year term; 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 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; a representative of the alumni associations of the state

university and colleges, selected for a two-year term by the alumni council, California State University and Colleges, which representative shall not be an employee of the California State University and Colleges during the two-year term; 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 two-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 two-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. Any appointment to fill a vacancy of a student member shall be effective only for the remainder of the term of the person's office that became vacated. The Speaker of the Assembly shall be an ex officio member; having equal rights and duties with nonlegislative members.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 2932 are both chaptered and become effective January 1, 1977, both bills amend Section 22601 of the Education Code, and this bill is chaptered after Assembly Bill No. 2932, 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. 2932 are both chaptered and become effective January 1, 1977, both amend Section 22601, and this bill is chaptered after Assembly Bill No. 2932, in which case Section 1 of this act shall not become operative.

CHAPTER 1099

An act to amend Sections 1 and 5 of, to add Sections 2, 3, 4, 6, 7, 8, 9, and 10 to, and to repeal Sections 2, 3, and 4 of, Chapter 245 of the Statutes of 1933, relating to state lands.

[Approved by Governor September 20, 1976 Filed with Secretary of State September 21, 1976]

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

SECTION 1. Section 1 of Chapter 245 of the Statutes of 1933 is amended to read:

Section 1. The State of California hereby grants to the City of San Mateo, and to its successors, all the right, title, and interest of the state held by virtue of its sovereignty, in and to all the salt marsh, tide, and submerged lands, whether filled or unfilled, within the present boundaries of the city, excepting therefrom any and all portions of such lands which were granted in trust by Chapter 1857 of the Statutes of 1965 to the County of San Mateo, to be held forever by the city, and by its successors, in trust for the benefit of all the people of the state for purposes of commerce, navigation, fisheries, and for other public purposes, including, but not limited to, preservation of such lands in their natural state for scientific study, open space, wildlife habitat, recreational uses, as more particularly provided below, and for the following uses and purposes, and upon the following express conditions:

(a) That the lands shall be used by the city and its successors for only the following uses and purposes in which there is a general public interest:

(1) The establishment, improvement, and conduct of a public harbor, and for the construction, maintenance, and operation of dikes, lagoons, wharves, docks, piers, slips, quays, ways, and streets, and other utilities, structures, and appliances necessary or convenient for the promotion and accommodation of trust uses and purposes.

(2) The development, establishment, and implementation of a shoreline park plan consisting of public open-space parks and facilities, including dikes, ditches, lagoons, pumps, water control structures, a boardwalk, bicycle paths, trails, aquatic playgrounds, adventure playgrounds, picnic areas, specialty shops, restaurants, and other water-oriented and recreational facilities, open to the general public; and for the construction, reconstruction, improvement, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any such uses.

(3) The preservation, maintenance, and enhancement of the lands in their natural state, and the reestablishment of the natural state of the lands so that they may serve as ecological units for scientific study, as open space, and as environments which provide food and habitat for birds and marine life and which favorably affect the scenery and climate of the area.

(b) That, except as otherwise provided in this act, the city or its successors shall not, at any time, grant, convey, give, or alienate the lands, or any part thereof, to any individual, firm, or corporation for any purposes whatever; provided, however, that the city or its successors may grant franchises thereon for a period not exceeding 66 years for wharves, docks, quays, and other public uses and purposes, and may lease the lands or any part thereof for a period not

exceeding 66 years for purposes consistent with the trust upon which the lands are held by the state and with the uses specified in this section.

(c) That the lands shall be improved without expense to the state; provided, however, that nothing contained in this act shall preclude expenditures for the development of the lands for any public purpose not inconsistent with the trust upon which the lands are held by the state, or any board, agency, or commission thereof.

(d) That, in the management, conduct, operation, and control of the lands or any improvements, betterments, or structures thereon, the city or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(e) That the state shall have the right to use without charge any transportation, landing, or storage improvements, betterments, or structures constructed upon the lands for any vessel or other watercraft or railroad owned or operated by the state.

(f) There is hereby reserved to the people of the State of California the right to fish in the waters over the lands and the right of convenient access over the lands to the waters for this purpose, which rights, however, shall be subject to rules of the city that are necessary for facilitating the uses specified in subdivision (a) of this section.

SEC. 2. Section 2 of Chapter 245 of the Statutes of 1933 is repealed.

SEC. 3. Section 2 is added to Chapter 245 of the Statutes of 1933, to read:

Sec. 2. The provisions of Section 6359 of the Public Resources Code shall not apply to this act.

SEC. 4. Section 3 of Chapter 245 of the Statutes of 1933 is repealed.

SEC. 5. Section 3 is added to Chapter 245 of the Statutes of 1933, to read:

Sec. 3. The city may establish the ordinary high-water mark or the ordinary low-water mark of any of the lands hereby granted, by agreement, arbitration, or action to quiet title, whenever the city deems it expedient. Any establishment of an ordinary high-water mark or ordinary low-water mark by arbitration or agreement shall not be effective until approved by the State Lands Commission.

SEC. 6. Section 4 of Chapter 245 of the Statutes of 1933 is repealed.

SEC. 7. Section 4 is added to Chapter 245 of the Statutes of 1933, to read:

Sec. 4. (a) Whenever it shall appear to the city to be expedient for the settlement of boundary and title disputes, and to be in the best interests of the state for the purposes specified in Section 1, and that no substantial interference with the trust uses and purposes would ensue, the city may exchange lands of equal or greater value, whether filled or unfilled, with any state agency, political subdivision, person, or the United States or any agency thereof. In

any such exchange, all right, title, and interest in and to all deposits of minerals, including oil and gas and geothermal resources, in the lands to be received by the city, and the right to prospect for, mine, and remove such deposits from such lands or to authorize persons to prospect for, mine, and remove such deposits, shall be transferred to the state. Any land so acquired shall have the same status as to administration, control, and disposition as the lands for which it was exchanged. No such exchange shall be effective unless and until the State Lands Commission (1) makes a finding that the lands to be acquired by the city and the mineral rights to be transferred to the state are of equal or greater value than the lands and mineral rights for which they are to be exchanged and (2) approves the exchange.

(b) The lands exchanged may be improved, filled, and reclaimed by the grantee, subject to all necessary approvals by local, regional, state, or federal entities. Upon the adoption of a resolution by the State Lands Commission finding and declaring that such lands have been improved, filled, and reclaimed, and have thereby been excluded from the public channels and are no longer available, useful, or susceptible of being used for navigation and fishing and for other trust uses and purposes, and are no longer in fact tidelands or submerged lands, such lands shall thereupon be free from the public trust upon which they are held.

SEC. 8. Section 5 of Chapter 245 of the Statutes of 1933 is amended to read:

Sec. 5. There is hereby excepted and reserved to the state all deposits of minerals, including, but not limited to, all substances specified in Section 6407 of the Public Resources Code, and the right to prospect for, mine, and remove such deposits from the lands granted by this act.

SEC. 9. Section 6 is added to Chapter 245 of the Statutes of 1933, to read:

Sec. 6. On or before January 1, 1980, the city shall submit to the State Lands Commission for its review a general use proposal, which shall constitute a description of what the city intends to do with the granted lands. The general use proposal required by this section should contain information in sufficient detail to enable the State Lands Commission to assure compliance with the terms and conditions of this act by, among other means, advising the city in a timely manner of any proposed uses or actions that may be inconsistent with the trust obligation. The use proposal shall include a description of uses planned or proposed for a period of at least five years and shall include the following information:

(a) A general description of the type of uses planned or proposed for the granted lands and of their location.

(b) A description of the anticipated public benefits to be derived from the planned or proposed uses of the granted lands, including, but not limited to, any benefits in furtherance of the trust uses and purposes upon which the lands are held.

(c) A description of the proposed method of financing the

planned or proposed uses, including estimated capital and annual operating costs and anticipated annual revenues.

(d) An estimated timetable for implementation of the general use proposal or any phase thereof.

(e) A description of how the city proposes to protect and preserve natural and manmade resources in connection with the use of the granted lands.

SEC. 10. Section 7 is added to Chapter 245 of the Statutes of 1933, to read:

Sec. 7. (a) All revenues derived from the use of granted lands shall be expended only for the trust uses and purposes upon which the lands are held.

(b) The city shall, with approval from the State Lands Commission, establish accounting procedures whereby an accurate record of all revenues derived from the use of granted lands and of all expenditures of any such revenues will be maintained. The purpose of this requirement is to provide for the segregation of funds derived from the use of the granted lands in order to assure that they are only expended for the trust uses and purposes upon which the lands are held.

(c) The State Lands Commission may, from time to time, review such records to assure that all revenues derived from the use of the granted lands are used only to complement, support, or otherwise further trust uses and purposes upon which such granted lands are held.

SEC. 11. Section 8 is added to Chapter 245 of the Statutes of 1933, to read:

Sec. 8. On or before September 30, 1980, and every fifth year thereafter, the city shall submit to the State Lands Commission a report regarding the manner in which the lands granted by this act have been utilized during the preceding five-year period ending June 30 of the calendar year in which the report is required to be submitted.

The report required by this section shall include the following information:

(a) A general description of the uses authorized and actually undertaken on the granted lands during the period covered by the report.

(b) A list of all the owners and holders of leases, permits, and franchises granted or issued by the city, which list shall specify, as to each such owner or holder the following information:

(1) A description of the specific use made of the granted lands.

(2) The consideration provided in each lease, permit, franchise, or other use agreement or authorization, and a statement of the consideration actually received by the city.

(c) A description of any restrictions or conditions imposed by the city during the period covered by the report on the use of the granted lands, and a description of the location of the lands to which such restrictions or conditions apply.

SEC. 12. Section 9 is added to Chapter 245 of the Statutes of 1933, to read:

Sec. 9. The city shall demonstrate good faith in carrying out, and shall make reasonable efforts to implement, the provisions of the general use proposal required by this act and any amendments thereto. If the State Lands Commission determines that the city has substantially failed to improve, restore, preserve, or maintain its granted lands in a manner consistent with the provisions of the general use proposal, or if the city demonstrates unreasonable delay in preparing and adopting a general use proposal for such granted lands, the State Lands Commission shall recommend to the Legislature that all right, title, and interest of the city in and to all lands held by virtue of this act be terminated and that all such right, title, and interest revert to the state and be returned to state administration.

SEC. 13. Section 10 is added to Chapter 245 of the Statutes of 1933, to read:

Sec. 10. The State Lands Commission shall, from time to time, institute a formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning these granted lands are being complied with in good faith by the city.

SEC. 14. 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 1100

An act to repeal and add Section 1262.5 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 1262.5 of the Unemployment Insurance Code is repealed.

SEC. 2. Section 1262.5 is added to the Unemployment Insurance Code, to read:

1262.5. Whenever the department learns that a trade dispute is in progress, the department shall promptly conduct an investigation and make investigation findings as to the nature, location, labor organizations and employers involved, and other relevant facts concerning the trade dispute as it deems necessary. The department

shall provide its findings to its field offices in locations affected by the trade dispute, and shall, upon request, make its findings available to any employer, employers' association or labor organization involved in the trade dispute. The department's investigation findings shall be based upon the information then available to it and shall not be a determination as to the eligibility of any claimant for benefits under Section 1262.

CHAPTER 1101

An act to amend Sections 6301, 6302, 6305, 6307, 6308, 6309, 6310, 6313, 6314, 6316, 6317, 6318, 6321, 6325, 6327 and 6330 of, to add Section 6325.1 to, and to repeal Section 6326 of, the Welfare and Institutions Code, relating to judicial commitments.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 6301 of the Welfare and Institutions Code is amended to read:

6301. This article shall not apply to any person sentenced to death. This article shall not apply to any person convicted of an offense the punishment for which may be death until after a sentence other than death has been imposed, at which time this article shall apply to such person and he may be certified to the superior court as provided in Section 6302.

SEC. 2. Section 6302 of the Welfare and Institutions Code is amended to read:

6302. (a) When a person is convicted of any sex offense, the trial judge, on his own motion, or on motion of the prosecuting attorney, or on application by affidavit by or on behalf of the defendant, if it appears to the satisfaction of the court that there is probable cause for believing such a person is a mentally disordered sex offender within the meaning of this chapter, may adjourn the proceeding or suspend the sentence, as the case may be, and may certify the person for hearing and examination by the superior court of the county to determine whether the person is a mentally disordered sex offender within the meaning of this article.

As used in this section the term "sex offense" means any offense for which registration is required by Section 290 of the Penal Code; or any felony or misdemeanor which is shown by clear proof or the stipulation of the defendant to have been committed primarily for purposes of sexual arousal or gratification.

When an affidavit is filed under (a) it shall be substantially in the form specified for the affidavit in Section 6251 of this code. The title and body of the affidavit shall refer to such person as "an alleged

mentally disordered sex offender" and shall state fully the facts upon which the allegation that the person is a mentally disordered sex offender is based. If the person is then before the court or is in custody, the court may order that the person be detained in a place of safety until the issue and service of an order for examination and detention as provided by this article.

(b) When a person is convicted of a sex offense involving a child under 14 years of age and it is a misdemeanor, and the person has been previously convicted of a sex offense in this or any other state, the court shall adjourn the proceeding or suspend the sentence, as the case may be, and shall certify the person for hearing and examination by the superior court of the county to determine whether the person is a mentally disordered sex offender within the meaning of this article.

(c) When a person is convicted of a sex offense involving a child under 14 years of age and it is a felony, the court shall adjourn the proceeding or suspend the sentence, as the case may be, and shall certify the person for hearing and examination by the superior court of the county to determine whether the person is a mentally disordered sex offender within the meaning of this article.

(d) When the court certifies the person for hearing and examination by the superior court of the county to determine whether the person is a mentally disordered sex offender, the court shall transmit to the superior court its certification to that effect, accompanied by a statement of the court's reasons for finding that there is probable cause for believing such person is a mentally disordered sex offender within the meaning of this article in cases certified under (a), or a statement of the facts making such certification mandatory under (b) or (c).

The judge or justice presiding in such court, whenever it is deemed necessary or advisable, may issue and deliver to some peace officer for service, an order directing that the person be apprehended and taken before a judge of the superior court for a hearing and examination to determine whether the person is a mentally disordered sex offender. The officer shall thereupon apprehend and detain the person until a hearing and examination can be had. At the time of the apprehension a copy of the affidavit if one was filed, the certification, accompanied by the court's statement, and the warrant shall be personally delivered to the person and copies thereof shall also be delivered to the superior court to which the person was certified and to the district attorney of the county.

The order for examination and detention shall be substantially in the form provided by Section 6252 of this code.

SEC. 2.5. Section 6305 of the Welfare and Institutions Code is amended to read:

6305. The person certified or alleged to be a mentally disordered sex offender shall be taken before a judge of the superior court of the county. The judge shall then inform him that he is certified or alleged to be a mentally disordered sex offender, and inform him of his rights

to make a reply and to produce witnesses in relation thereto. The judge shall by order fix such time and place for the hearing and examination in open court as will give reasonable opportunity for the filing of the probation officer's report as provided in Section 6306, and for the production and examination of witnesses. If, however, the person is too ill to appear in court, or if appearance in court would be detrimental to the mental or physical health of the person, the judge may hold the hearing at the bedside of the person. The order shall be entered at length in the minute book of the court or shall be signed by the judge and filed, and a certified copy thereof served on the person. The judge shall order that notice of the apprehension of the person and of the hearing of mentally disordered sex offender be served on the district attorney of the county and on such relatives of the person known to be residing in the county as the judge deems necessary or proper.

If the alleged mentally disordered sex offender has no attorney, an attorney shall be appointed to represent the person in the manner prescribed by Section 6314. In a county where there is no public defender, the court shall fix the compensation to be paid by the county for such services if the court determines that the person is not financially able to employ counsel.

SEC. 3. Section 6307 of the Welfare and Institutions Code is amended to read:

6307. The judge shall appoint not less than two nor more than three certified clinical psychologists or psychiatrists, each of whom shall be a holder of a valid and unrevoked physician's and surgeon's certificate who has directed his professional practice primarily to the diagnosis and treatment of mental and nervous disorders for a period of not less than five years to make a personal examination of the alleged mentally disordered sex offender, directed toward ascertaining whether the person is a mentally disordered sex offender.

If the proposed commitment is contested by either the defendant or the people, one of the clinical psychologists or psychiatrists so appointed may be designated by the defendant, and one by the people.

SEC. 4. Section 6308 of the Welfare and Institutions Code is amended to read:

6308. Each psychiatrist or psychologist so appointed shall file with the court a separate written report of the result of his examination, together with his conclusions and recommendations and his opinion as to whether or not the person would benefit by care and treatment in a state hospital. At the hearing each psychiatrist or psychologist shall hear the testimony of all witnesses, and shall testify as to the result of his examination, and to any other pertinent facts within his knowledge, unless the person upon the advice of counsel waives the presence of the psychiatrists or psychologist and it is stipulated that their respective reports may be received in evidence.

SEC. 5. Section 6309 of the Welfare and Institutions Code is

amended to read:

6309. Any psychiatrist or psychologist so appointed by the court may be called by either party to the proceeding or by the court itself and when so called shall be subject to all legal objections as to competency and bias and as to qualification as an expert. When called by the court, or by either party to the proceeding, the court may examine the psychiatrist or psychologist, as deemed necessary, but either party shall have the same right to object to the questions asked by the court and the evidence adduced as though the psychiatrist or psychologist were a witness for the adverse party. When the psychiatrist is called and examined by the court the parties may cross-examine him in the order directed by the court. When called by either party to the proceeding the adverse party may examine him the same as in the case of any other witness called by such party.

SEC. 6. Section 6310 of the Welfare and Institutions Code is amended to read:

6310. The psychiatrists or psychologists so appointed by the court shall be allowed such fees not exceeding one hundred fifty dollars ($150) per day, prorated by the court when services are rendered for less than a full day. The fees allowed shall be paid by the county in which the hearing is held.

SEC. 7. Section 6313 of the Welfare and Institutions Code is amended to read:

6313. The judge may, for any hearing, order the clerk of the court to issue subpoenas and compel the attendance of witnesses from any place within the boundaries of this state, as provided by law for the trial of a criminal case.

All witnesses, other than psychiatrists or psychologists appointed by the court, attending a hearing upon a subpoena issued under this section shall be entitled to the same fees and expenses as in criminal cases, to be paid upon the same conditions and in like manner.

SEC. 8. Section 6314 of the Welfare and Institutions Code is amended to read:

6314. The alleged mentally disordered sex offender shall be present at the hearing; and if he has no attorney, the judge shall appoint the public defender or other counsel to represent him unless the defendant affirmatively, knowingly and intelligently demands to act as his own attorney.

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, 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, and a copy of such commitment shall be personally served upon said person within five days after the making of such order. The term of commitment shall be indeterminate, provided that it may not exceed the aggregate maximum term of imprisonment to which the defendant could have been sentenced for the offense or offenses of which he has been convicted. 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.

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 or to the county mental health director for placement in an appropriate facility, the court shall, 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.

The first such report shall be submitted within 90 days after the person is received at the state hospital or other facility. Subsequent reports shall be submitted at six-month intervals unless a shorter interval is ordered by the court, and copies of all progress reports shall be provided to the defendant, his attorney of record, and the attorney for the people.

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: Are you convinced to a moral certainty and beyond a reasonable doubt that the defendant is a mentally disordered sex offender?

SEC. 12. 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 criminal 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 unanimously by 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. 13. 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. Upon the expiration of the time for making a motion pursuant to Section 6325.1, upon the denial of such motion, or upon the entry of a finding that the person is no longer a mentally disordered sex offender after a hearing pursuant to Section 6325.1, the committing court shall thereupon 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 upon such terms as may be required to protect the public if the criminal charge permits such probation and the person is otherwise eligible for probation. 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 and, if the sentence be to state prison, shall be credited by the Adult Authority in fixing the person's term and eligibility for parole.

SEC. 13.1. 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. Upon the expiration of the time for making a motion pursuant to Section 6325.1, upon the denial of such motion, or upon the entry of a finding that the person is no longer a mentally disordered sex offender after a hearing pursuant to Section 6325.1, the committing court shall thereupon 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 upon such terms as may be required to protect the public if the criminal charge permits such probation and the person is otherwise eligible for probation. 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 by the court or community release board against such sentence.

SEC. 13.5. Section 6325.1 is added to the Welfare and Institutions Code, to read:

6325.1. When a person is returned to the committing court pursuant to Section 6325, either party may move for a new examination and hearing pursuant to Sections 6306 through 6318, inclusive, within five days of the person's arrival. The motion may be granted if the moving party shows by affidavit the existence of facts which establish that the opinion certified under subdivision (a) or (b) of Section 6325 was an abuse of discretion. Such hearing shall be set to commence within 30 days of the person's return to court. If the opinion certified was under subdivision (a) of Section 6325, and a

new hearing is granted upon motion of the people, the person shall be entitled to be admitted to bail or release on his own recognizance in the manner provided by law for criminal cases. If, at the conclusion of a hearing pursuant to this section, the person is found to remain a mentally disordered sex offender who could benefit by treatment in the state hospital or other mental health facility, the court may direct that the previous order of commitment remain in full force and effect.

SEC. 14. Section 6326 of the Welfare and Institutions Code is repealed.

SEC. 15. 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. 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. 16. Section 6330 of the Welfare and Institutions Code is amended to read:

6330. Every person committed to a state hospital or state institution or other public or private mental health facility as a mentally disordered sex offender, who escapes from or who escapes while being conveyed to or from such county facility, state hospital or state institution, is punishable by imprisonment in the state prison; or in the county jail not to exceed one year.

SEC. 16.5. Section 6330 of the Welfare and Institutions Code is amended to read:

6330. Every person committed to a state hospital or state institution or other public or private mental health facility as a mentally disordered sex offender, who escapes from or who escapes 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. 17. 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 by this act are such that related costs are incurred as a part of their normal operating procedures.

SEC. 18. It is the intent of the Legislature that if this bill and Senate Bill 42 are both chaptered, that both bills shall take effect. Therefore, if Senate Bill 42 is chaptered, Section 13.1 of this bill shall become operative, and Section 13 of this bill shall not become operative. If Senate Bill 42 is not chaptered, Section 13 of this bill shall become operative, and Section 13.1 shall be inoperative.

SEC. 19. It is the intent of the Legislature that if this bill and Senate Bill 42 are both chaptered and both bills amend Section 6330 of the Welfare and Institutions Code, that both bills shall take effect. Therefore if both this bill and Senate Bill 42 are chaptered, Section 16 of this bill shall become operative and Section 16.5 of this bill shall not become operative. If Senate Bill 42 is not chaptered then Section 16.5 of this bill shall become operative and Section 16 of this bill shall not become operative.

CHAPTER 1102

An act to amend Section 22507 of the Vehicle Code, relating to parking.

[Approved by Governor September 20, 1976 Filed with Secretary of State September 21, 1976]

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

SECTION 1. Section 22507 of the Vehicle Code is amended to read:

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, during all or certain hours of the day. Such ordinance or resolution may include a designation of certain streets upon which preferential parking privileges shall be given to residents and merchants adjacent to such streets under which such residents and merchants may be issued a permit which exempts them from the prohibition or restriction of such ordinance or resolution. With the exception of alleys, no such ordinance or resolution shall apply until signs or markings giving adequate notice thereof have been placed.

CHAPTER 1103

An act relating to postsecondary education.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. The Legislature finds and declares that continuing education for adults is an important purpose of institutions of postsecondary education.

To further this purpose, the Legislature intends that part-time students shall be treated equitably by California institutions of postsecondary education, that nondegree credit and noncredit postsecondary educational opportunities shall be available to meet demonstrated individual and group needs, and that electronic media shall be used effectively and efficiently to make postsecondary educational opportunities available.

The California Postsecondary Education Commission, in cooperation with the public and private segments of postsecondary education in California, through either advisory committees or task forces, shall study the state and segmental policies and practices relating to part-time students, to nondegree credit and noncredit postsecondary educational activities, and to the coordination of the use of electronic media used for instructional purposes. The commission shall recommend to the Legislature and the segments any needed changes in these policies and practices.

SEC. 2. The California Postsecondary Education Commission shall study the policies and practices relating to part-time students.

The commission shall develop descriptive data about the extent to which part-time students in California have similar and different personal and academic characteristics from full-time students.

The commission shall especially analyze the following:

(a) Fee schedules for part-time students;

(b) Concurrent enrollment fees;

(c) Student financial aid and other support services for part-time students, including fee waivers for such groups as the elderly;

(d) Application processes for part-time students, including concurrent enrollment;

(e) Course scheduling and office hours; and

(f) Accreditation and certification of courses and programs.

The commission shall submit an interim report to the Legislature by December 1, 1976, and shall report its complete findings and recommendations to the Legislature by December 1, 1977.

SEC. 3. The commission shall study nondegree credit and noncredit postsecondary educational activities within California.

(a) The commission shall report on and compare the general level and type of nondegree credit and noncredit educational activities within California, including such activities within the University of California Extension, the University of California Cooperative Extension, the California State University and Colleges Extensions, the California State University and Colleges Foundation Programs, the California Community Colleges Community Service Programs, the California Community Colleges ungraded courses, independent colleges extension courses, and formal educational offerings of business, government, and other noneducational organizations.

(b) The commission and the segments shall develop a mechanism to maintain a general inventory of the activities listed in subdivision (a).

(c) The commission shall analyze:

(1) Whether current policies of state support or nonsupport of the activities listed in subdivision (a) are appropriate; and

(2) Whether, and in what ways, certain of these activities may be used for degree purposes.

(d) The commission shall determine the effectiveness of existing methods of delineating functions and coordinating the activities of subdivision (a).

The commission shall submit an interim report to the Legislature by June 1, 1977, and shall report its complete findings and recommendations to the Legislature by June 1, 1977.

SEC. 4. The commission shall study the coordination within geographic regions of electronic media used for educational purposes.

The commission shall report its findings and recommendations to the Legislature by December 1, 1977.

CHAPTER 1104

An act to add Section 1480.3 to the Probate Code, relating to guardianship.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 1480.3 is added to the Probate Code, to read:

1480.3. Notwithstanding the provisions of Section 1480, in a proceeding to appoint a general guardian of the person and estate of a minor where the entirety of the estate consists of benefits received or to be received under Part 3 (commencing with Section 11000) of, or Part 5 (commencing with Section 17000) of, Division 9 of the Welfare and Institutions Code, or under Subchapter II (commencing with Section 401) of, or Part A of Subchapter XVI (commencing with Section 1382) of, Chapter 7, Title 42, United States Code, the court may dispense with the requirement of a bond in appointing a general guardian of the person and estate of a minor.

In the event that property, other than benefits received under Part 3 (commencing with Section 11000) of, or Part 5 (commencing with Section 17000) of, Division 9 of the Welfare and Institutions Code, or under Subchapter II (commencing with Section 401) of, or Part A of Subchapter XVI (commencing with Section 1382) of, Chapter 7, Title 42, United States Code, becomes part of the estate of a minor, the court may require the guardian to file a bond with the court.

CHAPTER 1105

An act to amend Sections 82018 and 82046 of, and add Sections 84204.1 and 84204.2 to, the Government Code, relating to campaign statements.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 82018 of the Government Code is amended to read:

82018. "Cumulative amount" in a campaign statement means the amount contributed or expended since the closing date of the most recent postelection statement which was required to be filed by the filer. For purposes of this section, the most recent postelection statement does not refer to any abbreviated statement required to

be filed pursuant to Section 84204.1. If the filer has not previously filed a campaign statement pursuant to this title, the cumulative amount is the amount contributed or expended since the first reportable transaction.

SEC. 2. Section 82046 of the Government Code is amended to read:

82046. "Period covered" by a statement or report required to be filed by this title means, unless a different period is specified, the period beginning with the day after the closing date of the most recent statement or report which was required to be filed, and ending with the closing date of the statement or report in question. For purposes of this section, the most recent statement or report does not refer to any abbreviated campaign statement required to be filed pursuant to Section 84204.1. If the person filing the statement or report has not previously filed a statement or report of the same type, the period covered begins on the day on which the first reportable transaction occurred. Nothing in this chapter shall be interpreted to exempt any person from disclosing transactions which occurred prior to the effective date of this title according to the laws then in effect.

Section 84204.1 is added to the Government Code, to read:

84204.1. (a) Except as provided in subdivision (b) of this section, a committee which supports or opposes one or more candidates or measures is not required to file campaign statements in connection with an election or circulation of a measure unless any of the following is applicable:

(1) The election in which the committee is participating is held on the same day as a direct primary election or general election as defined in Sections 26 and 23, respectively, of the Elections Code;

(2) The committee is controlled by one or more candidates in the election; or

(3) The primary political activity of the committee relates to circulation of the measure, the election, or to other elections conducted on the same day in the same jurisdiction.

(b) Any committee which is not required to file a campaign statement pursuant to subdivision (a) of this section, but which contributes or directly expends two hundred fifty dollars ($250) or more in connection with any candidate or measure in an election, or circulation of a measure, shall file an abbreviated statement which contains the following items:

(1) Itemization of contributions received pursuant to subdivision (g) of Section 84210;

(2) Itemization of expenditures pursuant to subdivisions (h) and (i) of Section 84210, but limited to expenditures directly related to the election; and

(3) Information about the filing committee pursuant to subdivision (j) of Section 84210.

The information contained in the abbreviated statement shall be repeated in any subsequent statement filed, except that the

itemization of contributions and expenditures may be incorporated by reference if the subsequent statement and copies are filed with the same officers as the abbreviated statement.

SEC. 4. Section 84204.2 is added to the Government Code, to read:

84204.2. A committee which files a preelection campaign statement or abbreviated statement and which, after the closing date of the statement, receives no contributions and makes no expenditures related to the election, may designate the statement a "final statement" and shall not be required to file any subsequent preelection or postelection statement in connection with the election if the final statement contains the following declaration signed by the treasurer:

"As treasurer of the committee filing this (abbreviated) campaign statement, I declare that the committee has not received contributions or made expenditures and has no present intention of receiving contributions or making expenditures related to this election after the closing date of this statement. If any such contributions are received or expenditures made, additional (abbreviated) campaign statements will be filed as required by law. I understand that failure to file statements if any such additional contributions are received or expenditures are made will subject me to civil and criminal penalties."

For purposes of determining the period covered and the cumulative period for future statements filed by the same committee, a final statement (other than an abbreviated statement) filed under this section shall be treated as a postelection statement, provided that no audit of a final statement pursuant to Chapter 10 shall begin until after the last date for filing the postelection statement following the general or special election for the office for which the candidate ran, or following the election at which the measure was adopted or defeated.

SEC. 5. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1106

An act to amend Sections 81007, 82018, 82046, 84200.5, 84213, and 84305 of, to add Sections 81009, 84202, 84204.1, 84204.2, and 84207.5 to, and to repeal Sections 81009 and 84202 of, the Government Code, relating to elections.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 81007 of the Government Code is amended to read:

81007. When a report or statement or copies thereof required to be filed with any officer under this title have been sent by first-class mail, addressed to the officer, it shall for purposes of any deadline be deemed to have been received by him on the date of the deposit in the mail. It shall be presumed until the contrary is established that any date stamped by the post office on the envelope containing the report or statement is the date it was deposited in the mail. Mail which is not received by the filing officer shall be presumed not to have been sent unless the filer possesses a post office receipt establishing the date of deposit and the name and address of the addressee.

SEC. 2. Section 81009 of the Government Code is repealed.

SEC. 3. Section 81009 is added to the Government Code, to read:

81009. (a) Statements of organization, registration statements of lobbyists, and original campaign statements of mayors, city council members, county supervisors, persons holding elective state office, candidates for any such office, committees supporting any such officeholder or candidate, and committees supporting or opposing statewide measures, shall be retained by filing officers indefinitely.

(b) Original campaign statements of all other persons shall be retained by filing officers for a period of not less than seven years.

(c) Original statements of economic interests of persons holding statewide elective office shall be retained by filing officers indefinitely.

(d) Original reports and statements not specified above in this section shall be retained by filing officers for a period of not less than seven years.

(e) Copies of reports or statements shall be retained by the officer with whom they are filed for a period of not less than four years.

(f) After an original report or statement or a copy has been on file for at least four years, the officer with whom it is filed may comply with this section by retaining a copy on microfilm or other space-saving materials available for public inspection.

SEC. 4. Section 82018 of the Government Code is amended to read:

82018. "Cumulative amount" in a campaign statement means the amount contributed or expended since the closing date of the most recent postelection statement which was required to be filed by the filer. For purposes of this section, the most recent postelection statement does not refer to any abbreviated statement required to be filed pursuant to Section 84204.1. If the filer has not previously filed a campaign statement pursuant to this title, the cumulative amount is the amount contributed or expended since the first reportable transaction.

SEC. 5. Section 82046 of the Government Code is amended to read:

82046. "Period covered" by a statement or report required to be

filed by this title means, unless a different period is specified, the period beginning with the day after the closing date of the most recent statement or report which was required to be filed, and ending with the closing date of the statement or report in question. For purposes of this section, the most recent statement or report does not refer to any abbreviated campaign statement required to be filed pursuant to Section 84204.1. If the person filing the statement or report has not previously filed a statement or report of the same type, the period covered begins on the day on which the first reportable transaction occurred. Nothing in this chapter shall be interpreted to exempt any person from disclosing transactions which occurred prior to the effective date of this title according to the laws then in effect.

SEC. 6. Section 84200.5 of the Government Code is amended to read:

84200.5. Notwithstanding the provisions of Section 84200, a candidate for county central committee shall file a campaign statement within 65 days following the election and shall not be required to file any additional campaign statement, unless he has received contributions for that election in which case he shall observe the requirements of Section 84200.

This section is not applicable to a committee supporting or opposing one or more candidates for county central committee, and each such committee shall observe the requirements of Section 81005.

SEC. 7. Section 84202 of the Government Code is repealed.

SEC. 8. Section 84202 is added to the Government Code, to read:

84202. Committees supporting or opposing the qualification of a measure and proponents of a state measure shall file campaign statements not later than 35 days after the deadline for filing petitions or the date of notification that the measure has either qualified or failed to qualify, whichever date is earlier. The closing date for such a statement shall be 28 days after the deadline for filing petitions or the date of notification that the measure has either qualified or failed to qualify, whichever date is earlier. No committee shall be required to file semiannual statements pursuant to Section 84206 by reason of its support or opposition to qualification of a measure for the ballot.

SEC. 9. Section 84204.1 is added to the Government Code, to read:

84204.1. (a) Except as provided in subdivision (b), a committee which supports or opposes one or more candidates or measures is not required to file campaign statements in connection with an election or circulation of a measure unless any of the following is applicable:

(1) The election in which the committee is participating is held on the same day as a direct primary election or general election as defined in the Elections Code; or

(2) The committee is controlled by one or more candidates in the election; or

(3) The primary political activity of the committee relates to the circulation of the measure, the election or to other elections conducted on the same day in the same jurisdiction.

(b) Any committee which is not required to file a campaign statement pursuant to subdivision (a) but which contributes or directly expends two hundred fifty dollars ($250) or more in connection with any candidate or measure in an election, or circulation of a measure shall file an abbreviated statement which contains only (1) itemization of contributions received pursuant to subdivision (g) of Section 84210; (2) itemization of expenditures pursuant to subdivisions (h) and (i) of Section 84210 but limited to expenditures directly related to the election; and (3) information about the filing committee pursuant to subdivision (j) of Section 84210.

The information contained in the abbreviated statement shall be repeated in any subsequent statement filed, except that the itemization of contributions and expenditures may be incorporated by reference if the subsequent statement and copies are filed with the same officers as the abbreviated statement.

SEC. 10. Section 84204.2 is added to the Government Code, to read:

84204.2. A committee which files a preelection campaign statement or abbreviated statement and which, after the closing date of the statement, receives no contributions and makes no expenditures related to the election, may designate the statement a "final statement" and shall not be required to file any subsequent preelection or postelection statement in connection with the election if the final statement contains a declaration signed by the treasurer as follows:

> As treasurer of the committee filing this (abbreviated) campaign statement, I declare that the committee has not received contributions or made expenditures and has no present intention of receiving contributions or making expenditures related to this election after the closing date of this statement. If any such contributions are received or expenditures made, additional (abbreviated) campaign statements will be filed as required by law. I understand that failure to file statements if any such additional contributions are received or expenditures are made will subject me to civil and criminal penalties.

For purposes of determining the period covered and the cumulative period for future statements filed by the same committee, a final statement (other than an abbreviated statement) filed under this section shall be treated as a postelection statement.

SEC. 11. Section 84207.5 is added to the Government Code, to read:

84207.5. Any person who will be appointed to office pursuant to Section 23520 of the Elections Code is not required to file campaign

statements unless he has received contributions or made expenditures or has given his consent for any other person to receive a contribution or make an expenditure with a view to bringing about his nomination or election. In such a case only the postelection statement is required to be filed.

SEC. 12. Section 84213 of the Government Code is amended to read:

84213. (a) A candidate and any committee or committees which he controls may file consolidated campaign statements under this chapter.

(b) Two or more committees which act jointly in support of or in opposition to any candidate or measure may file consolidated campaign statements under this chapter.

SEC. 13. Section 84305 of the Government Code is amended to read:

84305. No person shall make an expenditure for the purpose of sending a mass mailing unless the sender shows on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of such mailing the sender's name, street address and city in no less than six-point type. A post office box may be stated in lieu of a street address if the organization's address is a matter of public record with the Secretary of State. A copy of every mass mailing in support of or in opposition to a state candidate or state measure shall be sent to the commission on the same day on which it is mailed to the public generally. Such copies sent to the commission shall be public records. Section 11707 of the Elections Code shall not apply to any mass mailing which complies with this section.

SEC. 14. It is the intent of the Legislature, if this bill and Assembly Bill No. 4336 are both chaptered and become effective January 1, 1977, both bills add Section 84204.2 to the Government Code, and this bill is chaptered after A.B. 4336, that Section 84204.2, as added to the Government Code by A.B. 4336, shall become operative and Section 84204.2, as added by this bill, shall not become operative.

SEC. 15. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1107

An act to amend Section 1945.5 of the Civil Code, relating to landlord-tenant.

[Approved by Governor September 20, 1976 Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 1945.5 of the Civil Code is amended to read:

1945.5. Notwithstanding any other provision of law, any term of a lease executed after the effective date of this section for the hiring of residential real property which provides for the automatic renewal or extension of the lease for all or part of the full term of the lease if the lessee remains in possession after the expiration of the lease or fails to give notice of his intent not to renew or extend before the expiration of the lease shall be voidable by the party who did not prepare the lease unless such renewal or extension provision appears in at least eight-point boldface type, if the contract is printed, in the body of the lease agreement and a recital of the fact that such provision is contained in the body of the agreement appears in at least eight-point boldface type, if the contract is printed, immediately prior to the place where the lessee executes the agreement. In such case, the presumption in Section 1945 of this code shall apply.

Any waiver of the provisions of this section is void as against public policy.

CHAPTER 1108

An act to add and repeal Section 118.1 of the Streets and Highways Code, relating to state highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 118.1 is added to the Streets and Highways Code, to read:

118.1. Except as provided in Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code and Section 118.6 of this code, with respect to residential real property acquired for the construction of a state highway, but no longer required for such purpose because such construction will not be undertaken, the department shall first offer the real property for sale at its current fair market value to the occupant thereof if the occupant has rented or leased the real property from the department, has used and occupied the real property for over 10 years, and has made permanent improvements on the real property during that time at his own expense.

This section shall remain in effect only for one year from the effective date of the act which added this section, and as of such date this section is repealed.

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 Department of Transportation will soon be disposing of residential real property where the occupants have rented or leased the real property from the department, have used and occupied the real property for over 10 years, and have made permanent improvements on the real property during that time at their own expense. In order that such occupants be given the first right to purchase the real property at the current fair market value in view of them making permanent improvements thereon at their own expense, it is necessary that this act take effect immediately.

CHAPTER 1109

An act to amend Sections 5325, 5326, 5326.3, 5326.4, and 5326.5 of, to add Sections 5326.1, 5326.15, 5326.2, 5326.55, 5326.6, 5326.7, 5326.75, 5326.8, 5326.85, 5326.9, 5326.91, 5326.95, and 5715.3 to, and to repeal Section 5325.5 of, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Recognizing the danger of a violation of a mental patient's constitutional right to privacy, the Legislature intends by this enactment to assure that the integrity and free choice of every such patient is fully recognized and protected. Because those who are emotionally disturbed are vulnerable to being unduly influenced, the Legislature believes the protection of their rights requires a careful process of informing and consenting in order to assure the protection and vindication of their rights.

SEC. 1.5. Section 5325 of the Welfare and Institutions Code is amended to read:

5325. Each person involuntarily detained for evaluation or treatment under provisions of this part, each person admitted as a voluntary patient to any facility as defined in Section 1250 of the Health and Safety Code in which psychiatric evaluation or treatment is offered, and each mentally retarded person committed to a state hospital pursuant to Article 5 (commencing with Section 6500), Chapter 2 of Part 2 of Division 6 shall have the following rights, a list of which shall be prominently posted in English and Spanish in all facilities providing such services and otherwise brought to his attention by such additional means as the Director of Health may designate by regulation:

(a) To wear his own clothes; to keep and use his own personal possessions including his toilet articles; and to keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases.

(b) To have access to individual storage space for his private use.

(c) To see visitors each day.

(d) To have reasonable access to telephones, both to make and receive confidential calls.

(e) To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.

(f) To refuse convulsive treatment including, but not limited to, any electroconvulsive treatment, any treatment of the mental condition which depends on the induction of a convulsion by any means, and insulin coma treatment.

(g) To refuse psychosurgery. Psychosurgery is defined as those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of the following:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain;

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, action, or behavior; or

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, action, or behavior.

Psychosurgery does not include prefrontal sonic treatment wherein there is no destruction of brain tissue. The Director of Health shall promulgate appropriate regulations to assure adequate protection of patients' rights in such treatment.

(h) Other rights, as specified by regulation.

SEC. 1.5. Section 5325.5 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 5326 of the Welfare and Institutions Code is amended to read:

5326. The professional person in charge of the facility or his designee may, for good cause, deny a person any of the rights under Section 5325, except under subdivision (g) and the rights under subdivision (f) may be denied only under the conditions specified in Section 5326.7. To ensure that these rights are denied only for good cause, the Director of Health shall adopt regulations specifying the conditions under which they may be denied. Denial of a person's rights shall in all cases be entered into the person's treatment record.

SEC. 2.5. Section 5326.1 is added to the Welfare and Institutions Code, to read:

5326.1. Quarterly, each local mental health director shall report to the Director of Health, by facility, the number of persons whose rights were denied and the right or rights which were denied. The

content of these reports shall enable the Director of Health to identify individual treatment records, if necessary, for further analysis and investigation. These quarterly reports, except for the identity of the person whose rights are denied, shall be available, upon request, to Members of the State Legislature, or a member of a county board of supervisors.

Information pertaining to a denial of rights contained in the person's treatment record shall be made available, on request, to the person, his attorney, his conservator or guardian, or the State Department of Health. Such information, except for the identity of the person whose rights are denied, shall be made available to the Members of the State Legislature or a member of a county board of supervisors.

SEC. 3. Section 5326.15 is added to the Welfare and Institutions Code, to read:

5326.15. (a) Quarterly, any doctor or facility which administers convulsive treatments or psychosurgery, shall report to the local mental health director, who shall transmit a copy to the Director of Health, the number of persons who received such treatments wherever administered, in each of the following categories:

(1) Involuntary patients who gave informed consent.

(2) Involuntary patients who were deemed incapable of giving informed consent and received convulsive treatment against their will.

(3) Voluntary patients who gave informed consent.

(4) Voluntary patients deemed incapable of giving consent.

(b) Quarterly, the Director of Health shall forward to the Board of Medical Quality Assurance any records or information received from such reports indicating violation of the law, and the regulations which have been adopted thereto.

(c) The Director of Health shall annually submit to the Legislature the accumulation of such reports which shall indicate:

(1) The age distribution, the sex, and race of the patients.

(2) The source of the treatment payment.

(3) The average number of treatments.

(4) The number of cardiac arrests without death, fracture cases, "reported" memory loss, incidents of apnea, and all autopsy findings in case of death following administration of convulsive treatment.

SEC. 3.5. Section 5326.2 is added to the Welfare and Institutions Code, to read:

5326.2. To constitute voluntary informed consent, the following information shall be given to the patient in a clear and explicit manner:

(a) The reason for treatment, that is, the nature and seriousness of the patient's illness, disorder or defect.

(b) The nature of the procedures to be used in the proposed treatment, including its probable frequency and duration.

(c) The probable degree and duration (temporary or permanent) of improvement or remission, expected with or without such treatment.

(d) The nature, degree, duration, and the probability of the side effects and significant risks, commonly known by the medical profession, of such treatment, including its adjuvants, especially noting the degree and duration of memory loss (including its irreversibility) and how and to what extent they may be controlled, if at all.

(e) That there exists a division of opinion as to the efficacy of the proposed treatment, why and how it works and its commonly known risks and side effects.

(f) The reasonable alternative treatments, and why the physician is recommending this particular treatment.

(g) That the patient has the right to accept or refuse the proposed treatment, and that if he or she consents, has the right to revoke his or her consent for any reason, at any time prior to or between treatments.

SEC. 4. Section 5326.3 of the Welfare and Institutions Code is amended to read:

5326.3. The State Department of Health shall promulgate a standard written consent form, setting forth clearly and in detail the matters listed in Section 5326.2, and such further information with respect to each item as deemed generally appropriate to all patients.

The treating physician shall utilize the standard written consent form and in writing supplement it with those details which pertain to the particular patient being treated.

SEC. 5. Section 5326.4 of the Welfare and Institutions Code is amended to read:

5326.4. The treating physician shall then present to the patient the supplemented form specified under Section 5326.3 and orally, clearly, and in detail explain all of the above information to the patient. The treating physician shall then administer the execution by the patient of the total supplemented written consent form, which shall be dated and witnessed.

The fact of the execution of such written consent form and of the oral explanation shall be entered into the patient's treatment record, as shall be a copy of the consent form itself. Should entry of such latter information into the patient's treatment record be deemed by any court an unlawful invasion of privacy, then such consent form shall be maintained in a confidential manner and place.

The consent form shall be available to the person, and to his or her attorney, guardian, and conservator and, if the patient consents, to a responsible relative of the patient's choosing.

SEC. 6. Section 5326.5 of the Welfare and Institutions Code is amended to read:

5326.5. (a) For purposes of this chapter, "written informed consent" means that a person knowingly and intelligently, without duress or coercion, clearly and explicitly manifests consent to the proposed therapy to the treating physician and in writing on the standard consent form prescribed in Section 5326.4.

(b) The physician may urge the proposed treatment as the best one, but may not use, in an effort to gain consent, any reward or threat, express or implied, nor any other form of inducement or coercion, including, but not limited to, placing the patient in a more restricted setting, transfer of the patient to another facility, or loss of the patient's hospital privileges. Nothing in this subdivision shall be construed as in conflict with Section 5326.2. No one shall be denied any benefits for refusing treatment.

(c) A person confined shall be deemed incapable of written informed consent if such person cannot understand, or knowingly and intelligently act upon, the information specified in Section 5326.2.

(d) A person confined shall not be deemed incapable of refusal solely by virtue of being diagnosed as a mentally ill, disordered, abnormal, or mentally defective person.

(e) Written informed consent shall be given only after 24 hours have elapsed from the time the information in Section 5326.2 has been given.

SEC. 6.5. Section 5326.55 is added to the Welfare and Institutions Code, to read:

5326.55. Persons who serve on review committees shall not otherwise be personally involved in the treatment of the patient whose case they are reviewing.

SEC. 7. Section 5326.6 is added to the Welfare and Institutions Code, to read:

5326.6. Psychosurgery, wherever administered, may be performed only if:

(a) The patient gives written informed consent to the psychosurgery.

(b) A responsible relative of the person's choosing and with the person's consent, and the guardian or conservator if there is one, has read the standard consent form as defined in Section 5326.4 and has been given by the treating physician the information required in Section 5326.2. Should the person desire not to inform a relative or should such chosen relative be unavailable this requirement is dispensed with.

(c) The attending physician gives adequate documentation entered in the patient's treatment record of the reasons for the procedure, that all other appropriate treatment modalities have been exhausted and that this mode of treatment is definitely indicated and is the least drastic alternative available for the treatment of the patient at the time. Such statement in the treatment record shall be signed by the attending and treatment physician or physicians.

(d) Three physicians, one appointed by the facility and two appointed by the local mental health director, two of whom shall be either board-certified or eligible psychiatrists or board-certified or eligible neurosurgeons, have personally examined the patient and unanimously agree with the attending physicians' determinations

01032 295150 586

pursuant to subdivision (c) and agree that the patient has the capacity to give informed consent. Such agreement shall be documented in the patient's treatment record and signed by each such physician.

Psychosurgery shall in no case be performed for at least 72 hours following the patient's written consent. Under no circumstances shall psychosurgery be performed on a minor.

As used in this section and Sections 5326.4 and 5326.7 "responsible relative" includes the spouse, parent, adult child, or adult brother or sister of the person.

The giving of consent to any of the treatments covered by this chapter may not be construed as a waiver of the right to refuse treatment at a future time. Consent may be withdrawn at any time. Such withdrawal of consent may be either oral or written and shall be given effect immediately.

Refusal of consent to undergo a psychosurgery shall be entered in the patient's treatment record.

SEC. 8. Section 5326.7 is added to the Welfare and Institutions Code, to read:

5326.7. Subject to the provisions of subdivision (f) of Section 5325, convulsive treatment may be administered to an involuntary patient, including anyone under guardianship or conservatorship, only if:

(a) The attending or treatment physician enters adequate documentation in the patient's treatment record of the reasons for the procedure, that all reasonable treatment modalities have been carefully considered, and that the treatment is definitely indicated and is the least drastic alternative available for this patient at this time. Such statement in the treatment record shall be signed by the attending and treatment physician or physicians.

(b) A review of the patient's treatment record is conducted by a committee of two physicians, at least one of whom shall have personally examined the patient. One physician shall be appointed by the facility and one shall be appointed by the local mental health director. Both shall be either board-certified or board-eligible psychiatrists or board-certified or board-eligible neurologists. This review committee must unanimously agree with the treatment physician's determinations pursuant to subdivision (a). Such agreement shall be documented in the patient's treatment record and signed by both physicians.

(c) A responsible relative of the person's choosing and the person's guardian or conservator, if there is one, have been given the oral explanation by the attending physician as required by Section 5326.2. Should the person desire not to inform a relative or should such chosen relative be unavailable, this requirement is dispensed with.

(d) The patient gives written informed consent as defined in Section 5326.5 to the convulsive treatment. Such consent shall be for a specified maximum number of treatments over a specified maximum period of time not to exceed 30 days, and shall be

01032 295175 591

revocable at any time before or between treatments. Such withdrawal of consent may be either oral or written and shall be given effect immediately. Additional treatments in number or time, not to exceed 30 days, shall require a renewed written informed consent.

(e) The patient's attorney, or if none, a public defender appointed by the court, agrees as to the patient's capacity or incapacity to give written informed consent and that the patient who has capacity has given written informed consent.

(f) If either the attending physician or the attorney believes that the patient does not have the capacity to give a written informed consent, then a petition shall be filed in superior court to determine the patient's capacity to give written informed consent. The court shall hold an evidentiary hearing after giving appropriate notice to the patient, and within three judicial days after the petition is filed. At such hearing the patient shall be present and represented by legal counsel. If the court deems the above-mentioned attorney to have a conflict of interest, such attorney shall not represent the patient in this proceeding.

(g) If the court determines that the patient does not have the capacity to give written informed consent, then treatment may be performed upon gaining the written informed consent as defined in Sections 5326.2 and 5326.5 from the responsible relative or the guardian or the conservator of the patient.

(h) At any time during the course of treatment of a person who has been deemed incompetent, that person shall have the right to claim regained competency. Should he do so, the person's competency must be reevaluated according to subdivisions (e), (f), and (g).

SEC. 8.5. Section 5326.75 is added to the Welfare and Institutions Code, to read:

5326.75. Convulsive treatment for all other patients including but not limited to those voluntarily admitted to a facility, or receiving the treatment in a physician's office, clinic or private home, may be administered only if:

(a) The requirements of subdivisions (a), (c), and (d) of Section 5326.7 are met.

(b) A board-certified or board-eligible psychiatrist or a board-certified or board-eligible neurologist other than the patient's attending or treating physician has examined the patient and verifies that the patient has the capacity to give and has given written informed consent. Such verification shall be documented in the patient's treatment record and signed by the treating physician.

(c) If there is not the verification required by subdivision (b) of this section or if the patient has not the capacity to give informed consent, then subdivisions (b), (e), (f), (g), and (h) of Section 5326.7 shall also be met.

SEC. 9. Section 5326.8 is added to the Welfare and Institutions Code, to read:

5326.8. Under no circumstances shall convulsive treatment be performed on a minor under 12 years of age. Persons 16 and 17 years of age shall personally have and exercise the rights under this article.

Persons 12 years of age and over, and under 16, may be administered convulsive treatment only if all the other provisions of this law are complied with and in addition:

(a) It is an emergency situation and convulsive treatment is deemed a lifesaving treatment.

(b) This fact and the need for and appropriateness of the treatment are unanimously certified to by a review board of three board-eligible or board-certified child psychiatrists appointed by the local mental health director.

(c) It is otherwise performed in full compliance with regulations promulgated by the Director of Health under Section 5326.95.

(d) It is thoroughly documented and reported immediately to the Director of Health.

SEC. 9.5. Section 5326.85 is added to the Welfare and Institutions Code, to read:

5326.85. No convulsive treatment shall be performed if the patient, whether admitted to the facility as a voluntary or involuntary patient, is deemed to be able to give informed consent and refuses to do so. The physician shall indicate in the treatment record that the treatment was refused despite the physician's advice and that he has explained to the patient the patient's responsibility for any untoward consequences of his refusal.

SEC. 10. Section 5326.9 is added to the Welfare and Institutions Code, to read:

5326.9. (a) Any alleged or suspected violation of the laws governing the denial of rights herein described shall be reported to the Director of Health, who shall investigate and report each such alleged or suspected violation and the results of the investigation to the Board of Medical Examiners. The latter board shall investigate further, if warranted, and shall subject any physician or physicians to any penalty the board finds necessary as a result of its findings.

(b) Any physician who intentionally violates Sections 5326.2 through 5326.8 shall be subject to a civil penalty of not more than five thousand dollars ($5,000) for each violation. Such penalty may be assessed and collected in a civil action brought by the Attorney General in a superior court.

(c) Such intentional violation shall be grounds for revocation of license.

(d) The remedies provided by this subdivision shall be in addition to and not in substitution for any other remedies which an individual may have under law.

SEC. 11. Section 5326.91 is added to the Welfare and Institutions Code, to read:

5326.91. In any facility in which convulsive treatment is performed on a person whether admitted to the facility as an involuntary or voluntary patient, the facility will designate a

qualified committee to review all such treatments and to verify the appropriateness and need for such treatment. The local mental health director shall establish a postaudit review committee for convulsive treatments administered anywhere other than in any facility as defined in Section 1250 of the Health and Safety Code in which psychiatric evaluation or treatment is offered. Records of these committees will be subject to availability in the same manner as are the records of other hospital utilization and audit committees and to such other regulations as are promulgated by the Director of Health. Persons serving on such review committees will enjoy the same immunities as other persons serving on utilization, peer review, and audit committees of health care facilities.

SEC. 12. Section 5326.95 is added to the Welfare and Institutions Code, to read:

5326.95. The Director of Health shall adopt regulations to carry out the provisions of this chapter, including standards defining excessive use of convulsive treatment which shall be developed in consultation with the conference of local mental health directors.

SEC. 13. Section 5715.3 is added to the Welfare and Institutions Code, to read:

5715.3. In addition, expenditures subject to payment shall also include expenses incurred during the treatment of Short-Doyle patients through the implementation of this act. Payment shall be made of actual and necessary expenses of members incurred incident to the performance of their official duties and may include travel, lodging and meals while on official business.

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.

SEC. 15. 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 or school district 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 1110

An act relating to air pollution, and making an appropriation therefor.

[Approved by Governor September 20, 1976 Filed with Secretary of State September 21, 1976]

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

SECTION 1. The sum of fifty-four thousand dollars ($54,000) is hereby appropriated from the General Fund to the Regents of the University of California for expenditure by the Statewide Air Pollution Research Center located at the University of California, at Riverside, provided that such funds appropriated shall be used for public information and research dissemination activities.

CHAPTER 1111

An act to add Chapter 7 (commencing with Section 41600) to Division 17 of the Vehicle Code, relating to peace officers.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Chapter 7 (commencing with Section 41600) is added to Division 17 of the Vehicle Code, to read:

CHAPTER 7. ARREST QUOTAS

41600. For purposes of this chapter, "arrest quota" means any requirement regarding the number of arrests made, or the number of citations issued, by a peace officer, or the proportion of such arrests made and citations issued by a peace officer relative to the arrests made and citations issued by another peace officer or group of officers.

41601. For purposes of this chapter, "citation" means a notice to appear, notice of violation, or notice of parking violation.

41602. No state or local agency employing peace officers engaged in the enforcement of this code or any local ordinance adopted pursuant to this code, may establish any policy requiring any peace officer to meet an arrest quota.

41603. No state or local agency employing peace officers engaged in the enforcement of this code shall use the number of arrests or citations issued by a peace officer as the sole criteria for promotion, demotion, dismissal, or the earning of any benefit provided by the agency. Any such arrests or citations, and their ultimate dispositions, may only be considered in evaluating the overall performance of a peace officer. Such an evaluation may include, but shall not be limited to, criteria such as attendance, punctuality, work safety, complaints by citizen, commendations, demeanor, formal training, and professional judgment.

02816 295260 608

CHAPTER 1112

An act to amend Section 7371 of the Business and Professions Code, relating to cosmetology.

[Approved by Governor September 20, 1976 Filed with Secretary of State September 21, 1976]

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

SECTION 1. Section 7371 of the Business and Professions Code is amended to read:

7371. The examination of applicants for a license in any of the branches or practices of cosmetology shall include both a practical demonstration and a test and shall embrace the subjects concerning the particular branch or branches, practice or practices for which a certificate of registration and license is applied.

The examination shall not be confined to any special system or method. It shall be consistent in both practical and technical requirements, and of sufficient thoroughness to satisfy the board as to the applicant's skill in, and knowledge of, the practice of the occupation or occupations for which a license is sought.

In the conduct of examinations, practical demonstrations shall prevail over written tests, that is a greater number of credits shall be allowed on practical demonstrations than on written tests.

All written instructions given during any examination shall be available in Spanish to applicants.

CHAPTER 1113

An act to amend Sections 40863, 40864, 42300, and 42350 of, and to add Section 42351.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 40863 of the Health and Safety Code is amended to read:

40863. The decision shall become effective upon filing, unless the hearing board orders otherwise.

SEC. 2. Section 40864 of the Health and Safety Code is amended to read:

40864. (a) Judicial review may be had of a decision of a hearing board by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure. Except as otherwise provided in this section, any such petition shall be filed within 30 days

after the decision has been mailed pursuant to Section 40860. The right to petition shall not be affected by the failure to seek a rehearing before the hearing board.

(b) The complete record of the proceedings, or such parts thereof as are designated by the petitioner, shall be prepared by the hearing board and shall be delivered to the petitioner within 30 days after a request therefor by him, upon payment of the fee specified in Section 69950 of the Government Code for the transcript, the cost of preparation of other portions of the record, and for certification thereof.

(c) The complete record includes the pleadings, all notices and orders issued by the hearing board, any proposed decision by the hearing board, the final decision, a transcript of all proceedings, the exhibits admitted or rejected, the written evidence, and any other papers in the case.

(d) Where the petitioner, within 10 days after the last day on which a rehearing can be ordered, requests the hearing board to prepare all or any part of the record, the time within which a petition may be filed shall be extended until five days after its delivery to him. The hearing board may file with the court the original of any document in the record in lieu of a copy thereof.

SEC. 3. Section 42300 of the Health and Safety Code is amended to read:

42300. Every district board may establish, by regulation, a permit system that requires, except as otherwise provided in Section 42310, that before any person builds, erects, alters, replaces, operates, or uses any article, machine, equipment, or other contrivance which may cause the issuance of air contaminants, such person obtain a permit to do so from the air pollution control officer of the district.

The regulations may provide that a permit shall be valid only for a specified period. However, a permit shall be renewable upon payment of the fees required pursuant to Section 42311, except where action to suspend or revoke the permit has been initiated pursuant to Section 42304, 42307, or 42390, and such action has resulted in a final determination to suspend or revoke the permit by the air pollution control officer or the hearing board by whom, or before whom, such action has been initiated and all appeals, or time for appeals, from such final determination has been exhausted.

SEC. 4. Section 42350 of the Health and Safety Code is amended to read:

42350. Any person may apply to the hearing board for a variance from Section 41701 or from the rules and regulations of the district.

However, if the district board established a permit system by regulation pursuant to Section 42300, a variance may not be granted from the requirement for a permit to build, erect, alter, or replace.

SEC. 5. Section 42351.5 is added to the Health and Safety Code, to read:

42351.5. If a person granted a variance with a schedule of increments of progress files an application for modification of the

schedule and is unable to notify the hearing board sufficiently in advance to allow the hearing board to schedule a public hearing on the application, the hearing board may grant an interim authorization valid for not more than 30 days, to that person to continue operation pending the decision of the hearing board on the application. The interim authorization shall not be granted for a requested extension of a final compliance date or where the original variance expressly required advance application for the modification of an increment of progress.

CHAPTER 1114

An act to amend Sections 13200, 13201, and 13205 of the Business and Professions Code, to add Chapter 14.5 (commencing with Section 25995) to Division 20 of the Health and Safety Code, and to amend Sections 597y and 597z of, and to add Section 597x to, the Penal Code, relating to animals.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 13200 of the Business and Professions Code is amended to read:

13200. For purposes of this chapter "animal euthanasic device" means any carbon monoxide gas chamber, nitrogen gas chamber, or high-altitude decompression chamber used by a person, peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency, for the killing of any dog or cat.

SEC. 2. Section 13201 of the Business and Professions Code is amended to read:

13201. Except as provided in Section 13206, the State Sealer shall semiannually inspect all animal euthanasic devices to ascertain that each such device meets the standards set forth in subdivisions (a) to (d), inclusive, of Section 597u of the Penal Code, subdivisions (a), (b), (c), and (f) of Section 597w of the Penal Code, or subdivisions (a), (d), and (e) of Section 597x of the Penal Code, as the case may be.

SEC. 3. Section 13205 of the Business and Professions Code is amended to read:

13205. No animal euthanasic device, whether sealed or not, which does not meet the standards prescribed by either Section 597u, 597w, or 597x of the Penal Code shall be used for the killing of dogs or cats.

SEC. 4. Chapter 14.5 (commencing with Section 25995) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 14.5. RETAIL SALES OF DOGS OR CATS

25995. Every retail dealer of dogs and cats shall conform to the provisions of this chapter. As used in this chapter, "retail dealer" means a person engaging in the business of selling dogs or cats, or both, at retail, and by virtue of such sales of dogs and cats is required to possess a permit pursuant to Section 6066 of the Revenue and Taxation Code. For purposes of this chapter, the separate sales of dogs or cats from a single litter shall constitute only one sale under Section 6019 of the Revenue and Taxation Code.

The provisions of this chapter shall not apply to publicly operated pounds and humane societies.

25995.1. Every retail dealer receiving dogs or cats from a common carrier shall transport, or have transported, such dogs and cats from the carrier's premises within six business hours after receipt of notification by the carrier of the completion of shipment and arrival of the animal at the carrier's point of destination.

25995.2. All dogs or cats received by a retail dealer shall, prior to being placed with other dogs or cats, be examined for sickness. Any dog or cat found to be afflicted with a contagious disease shall be kept caged separately from healthy animals.

25995.3. Every retail dealer shall deliver to the purchaser of each dog and cat at the time of sale a written statement in a standardized form prescribed by the Department of Consumer Affairs containing the following information:

(a) If the person from whom the dog or cat was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number.

(b) The date of the animal's birth, unless unknown because of the source of such animal.

(c) A record of the immunizations administered to the animal as of the time of sale, including the dates of administration and the type of vaccine.

(d) A record of any known disease or sickness that the dog or cat is afflicted with at the time of sale. In addition, this information shall also be verbally disclosed to the purchaser.

25995.4. Every retail dealer shall maintain a written record on each dog and cat received by him which shall contain all information required to be disclosed by Section 25995.3 and any disease or sickness of the animal observed while the animal is in possession of the retail dealer, including, but not limited to, symptoms of illness, diagnosed illness, treatment and medications.

25995.5. Any person violating any provision of this chapter shall be subject to a civil penalty, not to exceed two hundred fifty dollars ($250). An action for recovery of such a civil penalty may be prosecuted in the name of the people of the State of California by the district attorney for the county in which the violation occurred in the appropriate court.

SEC. 5. Section 597x is added to the Penal Code, to read:

597x. No person, peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall kill any dog or cat by the use of nitrogen gas unless all of the following are satisfied:

(a) The nitrogen gas cabinet shall be equipped with a viewport providing direct visual surveillance of the collapse and death of any cat or dog within the cabinet, and internal lighting unless the cabinet is equipped with a clear door.

(b) The nitrogen gas cabinet and its compartments shall be thoroughly cleaned after every cycle of operation.

(c) Every dog or cat shall be placed in an individual container or compartment of the nitrogen gas cabinet, except dogs or cats from the same litter and their parents may be placed in the same container or compartment.

(d) The oxygen concentration within the cabinet shall be reduced to 1.5% or less by displacing air within the cabinet with nitrogen.

(e) The 1.5% reduction in oxygen concentration shall be reached within 60 seconds after the beginning of the cycle of operation and the animals shall be left within the cabinet at that concentration for a minimum of 10 minutes.

SEC. 6. Section 597y of the Penal Code is amended to read:

597y. Any violation of Section 597u, 597v, 597w, or 597x shall be a misdemeanor.

SEC. 7. Section 597z of the Penal Code is amended to read:

597z. A humane officer appointed under Section 607f of the Civil Code or the State Sealer may enter any facility utilizing a high-altitude decompression or carbon monoxide chamber or nitrogen gas cabinet for the purpose of inspecting the operation of such facility to determine whether there is compliance with Sections 597u, 597v, 597w, and 597x.

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 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 1115

An act to amend Sections 20045, 20567.6, 20603, 20815, 21251.13, and 31840.4 of, to amend and renumber Sections 21263.5 and 20896 of, to add Sections 20022.2, 20759.1, and 22818 to, and to repeal Section 20866 of, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 20022.2 is added to the Government Code, to read:

20022.2. Notwithstanding any other provision of this part, "compensation" shall not include employers' payments which are to be credited as employee contributions for benefits provided by this system, or employers' payments which are to be credited to employee accounts in deferred compensation plans; provided, that amounts deducted from a member's wages for participation in a deferred compensation plan pursuant to Section 20022 shall not be considered to be employer's payments.

SEC. 2. Section 20045 of the Government Code is amended to read:

20045. Wherever in this part the rights of a member, because of membership in another retirement system, are conditioned upon employment within 90 days of termination of membership in this system or another retirement system, with respect to such employment which occurs on and after January 1, 1976, the period shall be six months rather than 90 days.

SEC. 2.1. Section 20045 of the Government Code is amended to read:

20045. Wherever in this part the rights of a member, because of membership in another retirement system, are conditioned upon employment within 90 days of termination of membership in this system or another retirement system, with respect to such employment which occurs on and after January 1, 1976, such period shall be six months rather than 90 days.

This section shall also be applicable to members who were permanent employees of the state who were laid off because of a reduction in work force and whose break in service between retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.

SEC. 2.3. Section 20567.6 of the Government Code is amended to read:

20567.6. The legislative body of a contracting agency that intends to cease to exist, or which intends to continue in existence in name only, hereinafter referred to as the first agency, may agree to the merger of its contract into the contract of any other contracting agency which employs or is employing any employee of the first agency within 90 days after the date of such agreement. Upon approval of the merger by the governing body of the other contracting agency, the merger shall be effective as of the date of such agreement. Upon such merger the first agency's contract shall cease to exist and the contract of the succeeding agency shall be considered a continuation and, to the extent of any differences, an amendment to the first agency's contract with respect to its former

employees. Accumulated contributions held for, or as having been made by, the first agency and such employees, and assets derived from such contributions, shall be merged with analogous contributions under the contract of the succeeding agency, and credit for prior and current service of such employees who were members under the first agency's contract shall not be changed by the transaction. The liability to the system with respect to service credited under the first agency's contract shall become a liability under the contract of the succeeding agency. The agencies may agree to payments between them with respect to such liability but any such agreement shall not affect the liability of the succeeding agency with respect to such service.

SEC. 2.5. Section 20603 of the Government Code, as amended by Chapter 341 of the Statutes of 1976, is amended to read:

20603. (a) The normal rate of contribution for a state miscellaneous member whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid such member for service rendered on and after July 1, 1976. The normal rate of contribution for a school member, or a local miscellaneous member shall be 7 percent of the compensation paid such member for service rendered on and after the operative date of the amendments to this section at the 1971 Regular Session.

The normal rate of contribution as established under this subdivision for a member whose service is included in the federal system, and whose service retirement allowance is reduced under Section 21251.13 because of such inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service after the date of execution of the agreement including such service in the federal system and prior to termination of such agreement with respect to the coverage group to which he belongs.

(b) The normal rate of contribution for a state miscellaneous member whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen dollars ($513) per month paid such member for service rendered on and after July 1, 1976.

SEC. 3. Section 20759.1 is added to the Government Code, to read:

20759.1. A public agency which becomes a contracting agency on or after January 1, 1977, or which amends its contract to include the benefits provided in Sections 21263 and 21263.1, shall not be an employer for purposes of Section 20759, and all contributions of such a contracting agency shall be held exclusively for the benefit of its employees, its retired employees, and beneficiaries of such employees and retired employees.

SEC. 4. Section 20815 of the Government Code is amended to read:

20815. Notwithstanding any other provision of this part, a

member employed on a part-time basis on and after January 1, 1976, shall, for such period of part-time employment, receive the credit he would receive if he was employed on a full-time basis and have his retirement allowance, as well as any other benefits he is entitled to under this part, based upon the salary that he would have received if employed on a full-time basis if he and his employer both elect to contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. This section shall be applicable only to members who are academic employees of California State University and Colleges or who are certificated employees of school districts and who have met the criteria provided in Section 13337.7 of the Education Code or Section 24215 of the Education Code and are not older than 67 years and is limited to a period of five years of such part-time status. The employer shall maintain the necessary records to separately identify each employee receiving credit pursuant to this section.

SEC. 4.5. Section 20815 of the Government Code is amended to read:

20815. Notwithstanding any other provision of this part, a member employed on a part-time basis on and after January 1, 1976 shall, for such period of part-time employment, receive the credit he would receive if he was employed on a full-time basis and have his retirement allowance, as well as any other benefits he is entitled to under this part, based upon the salary that he would have received if employed on a full-time basis if he and his employer both elect to contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. This section shall be applicable only to members who are academic employees of California State University and Colleges or who are certificated employees of school districts or county superintendents of schools and who have met the criteria provided in Section 13337.7 of the Education Code or Section 24215 of of the Education Code and are not older than 67 years and is limited to a period of five years of such part-time status. The employer shall maintain the necessary records to separately identify each employee receiving credit pursuant to this section.

SEC. 5. Section 20866 of the Government Code is repealed.

SEC. 5.3. Section 20896 of the Government Code, as added by Chapter 374 of the Statutes of 1974, is amended and renumbered to read:

20897. Time during which a member is absent from state service under leave of absence because of injury or illness which arose out of and in the course of employment, and for which he receives full or part salary in lieu of disability indemnity, shall be considered as time spent in state service for purposes of requirement of employer and member contribution, computation of service credit and qualification for and calculation of benefits as though he had not been absent.

SEC. 5.5. Section 21251.13 of the Government Code is amended to read:

21251.13. The combined current and prior service pensions for a local miscellaneous member, a school member, and for a state miscellaneous member, is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his retirement, to equal the fraction of one-fiftieth of his final compensation set forth opposite his age at retirement, taken to the preceding completed quarter year, in the following table in the column applicable to his sex, multiplied by the number of years of current and prior service except service in a category of membership other than that of state miscellaneous member or local miscellaneous member or school member, with which he is entitled to be credited at retirement.

Age of retirement	Fraction	
	Men	Women
50	.513	.546
50¼	.521	.554
50½	.529	.562
50¾	.537	.570
51	.546	.578
51¼	.555	.586
51½	.563	.595
51¾	.572	.603
52	.581	.612
52¼	.591	.621
52½	.600	.630
52¾	.610	.639
53	.619	.648
53¼	.630	.658
53½	.640	.668
53¾	.651	.678
54	.661	.688
54¼	.672	.698
54½	.683	.709
54¾	.695	.719
55	.706	.730
55¼	.718	.741
55½	.731	.753
55¾	.743	.764
56	.755	.776
56¼	.768	.788
56½	.782	.800
56¾	.795	.813
57	.808	.825
57¼	.823	.839
57½	.838	.852
57¾	.852	.865

03119 295455 647

58	.867	.879
58¼	.883	.893
58½	.899	.908
58¾	.915	.923
59	.931	.937
59¼	.948	.953
59½	.966	.969
59¾	.983	.985
60	1.000	1.000
60¼	1.017	1.016
60½	1.034	1.032
60¾	1.050	1.048
61	1.067	1.064
61¼	1.084	1.081
61½	1.101	1.097
61¾	1.119	1.114
62	1.136	1.131
62¼	1.154	1.148
62½	1.173	1.166
62¾	1.191	1.183
63 and over	1.209	1.200

The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation which does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system or for service after the effective date of his coverage under the federal system in the case of a member who on the day preceding the operative date of amendments to this section at the 1971 Regular Session was subject to the reduction provided in Section 21251.14 with respect only to service from such effective date. This reduction shall not apply to a member who, on the day preceding such operative date, was subject to Section 21251.1 but not Section 21251.14 with respect to service covered under the federal system, or to a member employed by a contracting agency which enters into a contract after such operative date and elects not to be subject to this paragraph or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which he belongs.

This section shall apply only to members whose retirement is effective on or after the operative date of amendments to this section at the 1971 Regular Session and as to such members and as of such date shall supersede Sections 21251.1, 21251.14, and 21252.001, whichever was then applicable to such members.

The improved retirement allowance provided by this section is granted subject to future reduction prior to a member's retirement, by offset of federal system benefits or otherwise, as the Legislature may from time to time deem appropriate because of changes in such federal system benefits.

SEC. 5.6. Section 21251.13 of the Government Code is amended to read:

21251.13. The combined current and prior service pensions for a local miscellaneous member, a school member, and for a state miscellaneous member, is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of state miscellaneous member or local miscellaneous member or school member, with which the member is entitled to be credited at retirement:

Age of retirement	Fraction
50	.546
50¼	.554
50½	.562
50¾	.570
51	.578
51¼	.586
51½	.595
51¾	.603
52	.612
52¼	.621
52½	.630
52¾	.639
53	.648
53¼	.658
53½	.668
53¾	.678
54	.688
54¼	.698
54½	.709
54¾	.719
55	.730
55¼	.741
55½	.753
55¾	.764
56	.776
56¼	.788
56½	.800
56¾	.813
57	.825
57¼	.839
57½	.852

03119 295485 653

57¾	.865
58	.879
58¼	.893
58½	.908
58¾	.923
59	.937
59¼	.953
59½	.969
59¾	.985
60	1.000
60¼	1.017
60½	1.034
60¾	1.050
61	1.067
61¼	1.084
61½	1.101
61¾	1.119
62	1.136
62¼	1.154
62½	1.173
62¾	1.191
63 and over	1.209

The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation which does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system or for service after the effective date of coverage under the federal system in the case of a member who on the day preceding the operative date of amendments to this section at the 1971 Regular Session was subject to the reduction provided in Section 21251.14 with respect only to service from such effective date. This reduction shall not apply to a member who, on the day preceding such operative date, was subject to Section 21251.1 but not Section 21251.14 with respect to service covered under the federal system, or to a member employed by a contracting agency which enters into a contract after such operative date and elects not to be subject to this paragraph or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

This section shall apply only to members whose retirement is effective on or after the operative date of amendments to this section at the 1971 Regular Session and as to such members and as of such date shall supersede Sections 21251.1, 21251.14, and 21252.001, whichever was then applicable to such members.

The improved retirement allowance provided by this section is granted subject to future reduction prior to a member's retirement, by offset of federal system benefits or otherwise, as the Legislature may from time to time deem appropriate because of changes in such

federal system benefits.

SEC. 5.8. Section 21263.5 of the Government Code, as added by Chapter 295 of the Statutes of 1975, is amended and renumbered to read:

21263.6. The provisions of Section 21263.4 shall also apply to any person to whom it would apply except for the fact that some of his state service was included in the federal system if such person, prior to retirement after November 30, 1974, had 25 years of credited service and less than two months of such service had been included in the federal system.

SEC. 6. Section 22818 is added to the Government Code, to read:

22818. Notwithstanding any other provision of this chapter, an employee who is receiving full-time service credit pursuant to Section 20815 may enroll in a health benefits plan.

SEC. 7. Section 31840.4 of the Government Code is amended to read:

31840.4. Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within 90 days of termination of employment covered by a system under this chapter or another retirement system, with respect to such reemployment which occurs on and after January 1, 1976, the period shall be six months rather than 90 days.

SEC. 7.5. Section 31840.4 of the Government Code is amended to read:

31840.4. Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within 90 days of termination of employment covered by a system under this chapter or another retirement system, with respect to such reemployment which occurs on and after January 1, 1976, such period shall be six months rather than 90 days.

This section shall also be applicable to members who were permanent employees of the state who were laid off because of a reduction in work force and whose break in service between retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.

SEC. 8. The amendments to Sections 20045, 20815 and 31840.4 of, and the addition of Section 20022.2 to, the Government Code, during the 1975–76 Regular Session of the Legislature do not constitute a change in, but are declaratory of, the existing law.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill No. 803 are both chaptered and become effective January 1, 1977, both bills amend Sections 20045 and 31840.4 of the Government Code, and this bill is chaptered after Senate Bill No. 803, that the amendments to Sections 20045 and 31840.4, proposed by both bills be given effect and incorporated in Sections 20045 and 31840.4, in the form set forth in Sections 2.1 and 7.5 of this act. Therefore, Sections 2.1 and 7.5 of this act shall become operative only if this bill and

Senate Bill No. 803 are both chaptered and become effective January 1, 1977, both amend Sections 20045 and 31840.4, and this bill is chaptered after Senate Bill No. 803, in which case Sections 2 and 7 of this act shall not become operative.

SEC. 10. It is the intent of the Legislature, if this bill and Assembly Bill No. 1891 are both chaptered and become effective January 1, 1977, both bills amend Section 21251.13 of the Government Code, and this bill is chaptered after Assembly Bill No. 1891, that the amendments to Section 21251.13 proposed by both bills be given effect and incorporated in Section 21251.13 in the form set forth in Section 5.6 of this act. Therefore, Section 5.6 of this act shall become operative only if this bill and Assembly Bill No. 1891 are both chaptered and become effective January 1, 1977, both amend Section 21251.13, and this bill is chaptered after Assembly Bill No. 1891, in which case Section 5.5 of this act shall not become operative.

SEC. 11. It is the intent of the Legislature, if this bill and Assembly Bill No. 2387 are both chaptered and become effective January 1, 1977, both bills amend Section 20815 of the Government Code, and this bill is chaptered after Assembly Bill No. 2387, that the amendments to Section 20815 proposed by both bills be given effect and incorporated in Section 20815 in the form set forth in Section 4.5 of this act. Therefore, Section 4.5 of this act shall become operative only if this bill and Assembly Bill No. 2387 are both chaptered and become effective January 1, 1977, both amend Section 20815, and this bill is chaptered after Assembly Bill No. 2387, in which case Section 4 of this act shall not become operative.

CHAPTER 1116

An act to amend Sections 11383 and 11384 of, and to amend the heading of Article 6 (commencing with Section 11383) of Chapter 6 of Division 10 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. The heading of Article 6 (commencing with Section 11383) of Chapter 6 of Division 10 of the Health and Safety Code is amended to read:

Article 6. Precursors of Methamphetamine and Phencyclidine

SEC. 2. Section 11383 of the Health and Safety Code is amended to read:

11383. (a) Any person who possesses both methylamine and

phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture methamphetamine is guilty of a felony and shall be punished by imprisonment in the state prison for not less than one year nor more than five years.

(b) Any person who possesses both piperidine and cyclohexanone at the same time, or a combination product thereof, with intent to manufacture phencyclidine (PCP) is guilty of a felony and shall be punished by imprisonment in the state prison for not less than one year nor more than five years.

(c) For purposes of this section, possession of immediate precursors sufficient for the manufacture of methylamine, phenyl-2-propanone, piperidine, or cyclohexanone shall be deemed to be possession of such a derivative substance. Additionally, possession of any compound or mixture containing piperidine or cyclohexanone shall be deemed to be possession of such substance.

(d) The provisions of subdivisions (a), (b), and (c) shall not apply to drug manufacturers licensed by this state or persons authorized by regulation of the Board of Pharmacy to possess such combination of substances.

SEC. 3. Section 11384 of the Health and Safety Code is amended to read:

11384. The Board of Pharmacy shall, by regulation, authorize such persons to possess any combinations of substance specified in subdivision (a) or (b) of Section 11383 as it determines need and will use such substance for a lawful purpose.

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 1117

An act to amend Section 11100 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 1976 Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 11100 of the Health and Safety Code is amended to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the

following substances to any person in this state shall submit a report to the State Department of Justice of all such transactions:

(1) Phenyl-2-propanone
(2) Methylamine
(3) D-lysergic acid
(4) Ergotamine tartrate
(5) Diethyl malonate
(6) Malonic acid
(7) Ethyl malonate
(8) Barbituric acid
(9) Piperidine

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 4.5 (commencing with Section 11371) of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes such substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes such substance to his patients.

(3) Any manufacturer or wholesaler licensed by the Board of Pharmacy who sells, transfers, or otherwise furnishes such substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(d) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in subdivision (a) to a person in this state shall, within 72 hours thereafter, submit a report of such transaction to the Department of Justice. However, the Department of Justice may authorize the submission of such reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that; (1) a pattern of regular supply of such substance exists as between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance, and (2) the recipient has established a record of utilization of such substance for lawful purposes.

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 1118

An act to amend Sections 12403.1, 12420, 12423, 12424, 12426, 12435, 12450, 12451, 12452, 12453, 12454, 12455, 12456, 12457, and 12458 of, and to add Sections 12403.6 and 12457.1 to, the Penal Code, relating to tear gas.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 12403.1 of the Penal Code is amended to read:

12403.1. Nothing in this chapter shall prohibit any member of the military and naval forces of this state or of the United States or any federal law enforcement officer from purchasing, possessing, or transporting any tear gas or tear gas weapon for official use in the discharge of his duties.

SEC. 2. Section 12403.6 is added to the Penal Code, to read:

12403.6. Provisions within this chapter shall not be construed to prohibit any Department of Justice or Department of Health employee, while acting within the scope of his duties, from possessing any tear gas or tear gas weapon for the purposes of examination, testing, or court appearance or any other official activity undertaken pursuant to the provisions of this chapter.

SEC. 3. Section 12420 of the Penal Code is amended to read:

12420. Any person, firm, or corporation who within this state knowingly sells or offers for sale, possesses, or transports any tear gas or tear gas weapon, except as permitted under the provisions of this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison not to exceed two years or by a fine not to exceed two thousand dollars ($2,000), or by both.

SEC. 4. Section 12423 of the Penal Code is amended to read:

12423. The Department of Justice may issue a permit for the possession and transportation of tear gas or tear gas weapons upon proof that good cause exists for the issuance thereof to the applicant for such permit. The permit may also allow the applicant to install, maintain, and operate a protective system involving the use of tear gas or tear gas weapons in any place which is accurately and completely described in the application for the permit.

SEC. 5. Section 12424 of the Penal Code is amended to read:

12424. Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address, a full description of the place or vehicle in which the tear gas or tear gas weapons are to be transported, kept, installed, or maintained.

If the tear gas or tear gas weapons are to be used in connection with, or to constitute, a protective system, the application shall also contain the name of the person who is to install the protective system.

Applications and permits shall be uniform throughout the state upon forms prescribed by the Department of Justice.

SEC. 6. Section 12426 of the Penal Code is amended to read:

12426. Permits issued in accordance with this article may be revoked or suspended by the issuing authority at any time when it appears that the need for the possession or transportation of the tear gas or tear gas weapons or protective system involving the use thereof, has ceased, or that the holder of the permit has engaged in an unlawful business or occupation or has wrongfully made use of the tear gas or tear gas weapons or the permit issued or that the holder of the permit was in the possession of tear gas or tear gas weapons not authorized under the provisions of this chapter.

SEC. 7. Section 12435 of the Penal Code is amended to read:

12435. The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at retail at the place specified in the license of tear gas or tear gas weapons, and to permit the installation and maintenance of protective systems involving the use of tear gas or tear gas weapons subject to all of the following conditions upon breach of any of which the license shall be subject to forfeiture:

(a) The business shall be carried on only in the building designated in the license.

(b) The license or certified copy thereof shall be displayed on the premises in a place where it may easily be read.

(c) No tear gas or tear gas weapon shall be delivered to any person not authorized to possess or transport the same under the provisions of this chapter. No protective system involving the use of tear gas or tear gas weapons shall be installed, nor shall supplies be sold for the maintenance of such system, unless the licensee has personal knowledge of the existence of a valid permit for the operation and maintenance of the system.

(d) A complete record shall be kept of sales made under the authority of the license, showing the name and address of the purchaser, the quantity and description of the articles purchased, together with the serial number, the number and date of issue of the purchaser's permit, and the signature of the purchaser or purchasing agent. No sale shall be made unless the permit authorizing possession and transportation of tear gas or tear gas weapons is displayed to the seller and the information required by this section is copied therefrom. This record shall be open to the inspection of any peace officer or other person designated by the Attorney General.

SEC. 8. Section 12450 of the Penal Code is amended to read:

12450. No tear gas or tear gas weapon shall be possessed, sold or transported in this state after January 1, 1971, unless, pursuant to the

provisions of this article, the Department of Justice has certified that particular type and brand of tear gas or tear gas weapon to be acceptable.

SEC. 9. Section 12451 of the Penal Code is amended to read:

12451. The term "acceptable" as used in this article when referring to tear gas or a tear gas weapon, means that such tear gas or tear gas weapon is reasonably free from any undue hazard when used by, or upon a human being taking into consideration such factors as the following:

(a) The reasonable safety, availability, and effectiveness of other devices, including other tear gas or tear gas weapons, capable of being used under the same circumstances and for the same purposes, including such factors as anticipated effective storage life for the particular product.

(b) The amount of hazard inherent in the use of the tear gas or tear gas weapon when weighed against the amount of hazard inherent in the kinds of conduct the tear gas or tear gas weapon is designed to control.

(c) The manner in which the tear gas or tear gas weapon can be expected to be used as well as the manner in which the manufacturer or seller thereof has recommended that it be used.

SEC. 10. Section 12452 of the Penal Code is amended to read:

12452. Any person engaged in the manufacture, sale, or transportation of tear gas or tear gas weapons may apply to the Department of Justice, hereinafter referred to as the "department" in this article, for certification that a particular type and brand of tear gas or tear gas weapon manufactured, sold, or transported by that person is acceptable.

SEC. 11. Section 12453 of the Penal Code is amended to read:

12453. Any application submitted pursuant to Section 12452 shall contain all of the following:

(a) Full reports of any investigation conducted by any public or private agency for the purpose of determining whether such tear gas or tear gas weapon is acceptable.

(b) A full statement of the composition of each component of such tear gas or tear gas weapon.

(c) A full statement of the methods used in, and the facilities and controls used for, the manufacture, processing and packing of such tear gas or tear gas weapon.

(d) Such samples of such tear gas or tear gas weapon and its components as the bureau may require.

(e) Specimens of the labeling, instructions, and advertisements used or proposed to be used for such tear gas or tear gas weapon.

SEC. 12. Section 12454 of the Penal Code is amended to read:

12454. Within 180 days after the filing of an application as provided for in Section 12452, or such additional period as may be agreed upon by the department and the applicant, the department shall either:

(a) Issue an order certifying such tear gas or tear gas weapon as acceptable.

(b) Give the applicant notice for an opportunity for a hearing before the department on the question whether such tear gas or tear gas weapon is acceptable. If the applicant elects to accept the opportunity for hearing by written request within 30 days after such notice, such hearing shall commence not more than 60 days after receiving such request unless the department and the applicant otherwise agree. Such hearing shall be heard on an expedited basis and the department shall issue an order granting or denying certification within 90 days after the date fixed by the department for filing final briefs.

SEC. 13. Section 12455 of the Penal Code is amended to read:

12455. The department shall issue an order refusing to certify or recertify or terminating a previously granted certification of any tear gas or tear gas weapon as acceptable if after due notice to the applicant the department finds any of the following:

(a) That the tear gas or tear gas weapon is not acceptable, for any reason, including the following:

(1) That the tear gas or tear gas weapon creates a risk of unreasonable danger to the life or health of human beings which outweighs the social utility of the use of such tear gas or tear gas weapon.

(2) That upon evaluation or reevaluation the tear gas or tear gas weapon is found not to meet the current criteria of the rules and regulations promulgated by the department.

(3) That the effective life of the tear gas or tear gas weapon is found not to meet the criteria of the department.

(4) That the tear gas or tear gas weapon is found to be nonfunctioning or is otherwise found to be ineffective as provided in the rules and regulations promulgated by the department.

(b) That the application contains any misrepresentation of a material fact.

(c) That the application is materially incomplete.

SEC. 14. Section 12456 of the Penal Code is amended to read:

12456. The department shall issue an order revoking certification if, after due notice to the applicant, the department finds any of the following:

(a) That experience or additional testing show that the tear gas or tear gas weapon is not acceptable as defined in Section 12451.

(b) That the application contains any misrepresentation of a material fact.

SEC. 15. Section 12457 of the Penal Code is amended to read:

12457. The department may adopt and promulgate all regulations necessary for the fair and efficient enforcement of the provisions of this chapter.

SEC. 16. Section 12457.1 is added to the Penal Code, to read:

12457.1. The department shall have and exercise the powers expressly granted in this chapter, together with such other powers as are reasonably implied therefrom and necessary and proper to

carry out the objects and purposes of this chapter.

Such powers include but are not limited to the authority to do the following:

(a) Periodically make tests of and review the certification of each type of tear gas or tear gas weapon as provided in the rules and regulations promulgated by the department pursuant to this chapter.

(b) Require the manufacturer of any tear gas or tear gas weapon to submit to the department complete written laboratory reports detailing the specifications of such tear gas or tear gas weapon for the purposes of testing, inspection, evaluation or reevaluation in accordance with the rules and regulations promulgated by the department.

(c) Cause any tear gas or tear gas weapon to be submitted by a manufacturer to the department for certification to be submitted to any laboratory of the department's choice.

(d) Consider the reports or other materials submitted by the manufacturer or by any other laboratory, private or public, in accordance with the rules and regulations promulgated by the department.

(e) Certify or refuse to certify any such tear gas or tear gas weapon pursuant to this chapter.

(f) Require reimbursement by the manufacturer to the department for any actual expenses incurred in conducting such testing, evaluation, and inspection of any such tear gas or tear gas weapon, or in reviewing and considering any report the manufacturer has caused to be submitted to the department pursuant to this chapter.

(g) Cause every type or brand of tear gas or tear gas weapon certified prior to January 1, 1976 to be reevaluated pursuant to the provisions of this article by January 1, 1978.

(h) Define acceptability of testing, evaluating and inspecting procedures and standards of proficiency in the rules and regulations promulgated by the department.

SEC. 17. Section 12458 of the Penal Code is amended to read:

12458. Prior to certification of any tear gas or tear gas weapon, the department shall request from the State Department of Health a report on each type and brand of tear gas or the contents of each type and brand of tear gas weapon submitted to it by the department. At the Attorney General's discretion, the State Department of Health shall prepare and transmit such report to the department, and shall also submit supplemental reports whenever the facts warrant such action. All the reports shall be for the purpose of aiding the department in determining whether the type and brand of tear gas or the contents of the dispensed material of the particular type and brand of tear gas weapon are harmful, toxic, or present any health hazards to human beings, and shall be based on any one or more of the following:

(a) Investigations conducted by the facilities of the State

Department of Health.

(b) Investigations conducted by independent laboratories.

(c) Any other investigations approved by the State Department of Health.

The applicant shall reimburse the State Department of Health and the Department of Justice for any actual expenses incurred by such departments in connection with such reports.

SEC. 18. 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 governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1119

An act to amend Section 246 of the Penal Code and Section 23110 of the Vehicle Code, relating to crimes and penalties.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 246 of the Penal Code is amended to read:

246. Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house or occupied building, or occupied motor vehicle is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison or by imprisonment in the county jail not exceeding one year.

SEC. 2. Section 23110 of the Vehicle Code is amended to read:

23110. (a) Any person who throws any substance at a vehicle or any occupant thereof on a highway is guilty of a misdemeanor.

(b) Any person who with intent to do great bodily injury maliciously and willfully throws or projects any rock, brick, bottle, metal or other missile, or projects any other substance capable of doing serious bodily harm at such vehicle or occupant thereof is guilty of a felony and upon conviction shall be punished by imprisonment in the state prison.

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 government entities which, in the aggregate, do not result in significant

identifiable cost changes.

CHAPTER 1120

An act to add Section 4131.5 to the Penal Code, relating to battery.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 4131.5 is added to the Penal Code, to read:

4131.5. Every person confined in, sentenced to, or serving a sentence in, a city or county jail, industrial farm, or industrial road camp in this state, who commits a battery upon the person of any individual who is not himself a person confined or sentenced therein, is guilty of a public offense and is punishable by imprisonment in a state prison for not more than three years or in a county jail for not more than one year.

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 which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1121

An act to amend Section 313.1 of the Penal Code, relating to pornography.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 313.1 of the Penal Code is amended to read:

313.1. (a) Every person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit any harmful matter to the minor is guilty of a misdemeanor.

(b) Every person who misrepresents himself to be the parent or guardian of a minor and thereby causes the minor to be admitted to an exhibition of any harmful matter is guilty of a misdemeanor.

(c) Any person who, within 500 meters of any elementary school, junior high school, high school, or public playground, or any part thereof, knowingly sells or offers to sell, in any coin- or slug-operated vending machine or mechanically or electronically controlled vending machine which is located on a public sidewalk, any harmful matter displaying to the public view photographs or pictorial representations of the commission of the following acts, is guilty of a misdemeanor: sodomy, oral copulation, sexual intercourse, masturbation, bestiality, or a photograph of an exposed penis in an erect and turgid state.

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 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 and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1122

An act to amend Section 402b of the Penal Code, relating to appliances.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 402b of the Penal Code is amended to read:

402b. Any person who discards or abandons or leaves in any place accessible to children any refrigerator, icebox, deep-freeze locker, clothes dryer, washing machine, or other appliance, having a capacity of one and one-half cubic feet or more, which is no longer in use, and which has not had the door removed or the hinges and such portion of the latch mechanism removed to prevent latching or locking of the door, is guilty of a misdemeanor. Any owner, lessee, or manager who knowingly permits such a refrigerator, icebox, deep-freeze locker, clothes dryer, washing machine, or other appliance to remain on premises under his control without having the door removed or the hinges and such portion of the latch mechanism removed to prevent latching or locking of the door, is guilty of a misdemeanor. Guilt of a violation of this section shall not, in itself, render one guilty of manslaughter, battery or other crime against a person who may suffer death or injury from entrapment in such a refrigerator, icebox, deep-freeze locker, clothes dryer, washing machine, or other appliance.

The provisions of this section shall not apply to any vendor or seller

of refrigerators, iceboxes, deep-freeze lockers, clothes dryers, washing machines, or other appliances, who keeps or stores them for sale purposes, if the vendor or seller takes reasonable precautions to effectively secure the door of any such refrigerator, icebox, deep-freeze locker, clothes dryer, washing machine, or other appliance so as to prevent entrance by children small enough to fit therein.

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 1123

An act to amend Section 4532 of the Penal Code, relating to escape.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 4532 of the Penal Code is amended to read:

4532. (a) Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of Sections 5654, 5656, or 5677 of the Welfare and Institutions Code as an inebriate, who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is employed or continuing in his regular educational program or authorized to secure employment or education away from the place of confinement, pursuant to the Work Furlough Rehabilitation Law (Section 1208), or who is authorized for temporary release for family emergencies or for purposes preparatory to his return to the community pursuant to Section 4018.6, and who thereafter escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from custody of the officer or person in charge of him while engaged on or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for not exceeding one year and one day, regardless of any prior convictions, or in the county jail not exceeding one year; provided, however, that if such escape or

attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison not exceeding 10 years, or in the county jail not exceeding one year; provided, that when said second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from said jail.

The willful failure of a prisoner, whether convicted of a felony or a misdemeanor, employed or continuing in his regular educational program or authorized to secure employment or education pursuant to the Work Furlough Rehabilitation Law (Section 1208), or authorized for temporary release for family emergencies or for purposes preparatory to his return to the community pursuant to Section 4018.6, to return to the place of confinement not later than the expiration of a period during which, pursuant to that law, he is authorized to be away from such place of confinement, is an escape from such place of confinement punishable as provided in this subdivision.

A conviction of violation of this subdivision, not by force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense.

(b) Every prisoner arrested and booked for, charged with, or convicted of a felony who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is confined pursuant to Section 4011.9, who escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged on or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, or from such confinement pursuant to Section 4011.9, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for not less than six months nor more than five years or in the county jail not exceeding one year; provided, that is such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison not exceeding 10 years, or in the county jail not exceeding one year; provided, that when said second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from said jail.

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 which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1124

An act to amend Section 190 of the Penal Code, relating to punishment for crimes.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 190 of the Penal Code is amended to read:

190. Every person guilty of murder in the first degree shall suffer death if any one or more of the special circumstances enumerated in Section 190.2 have been charged and found to be true in the manner provided in Section 190.1. Every person otherwise guilty of murder in the first degree shall suffer confinement in the state prison for life, unless he or she is guilty of murder in the first degree which is perpetrated by means of torture with the intent to kill, in which case he or she shall suffer confinement in the state prison without the possibility of parole. Every person guilty of murder in the second degree is punishable by imprisonment in the state prison from five years to life.

CHAPTER 1125

An act to amend Sections 652, 652.5, 6128, 6129, 6153, 17500, 17531, 17537, 17538, 17538.5, 17538.7, 17572, and 17830 of the Business and Professions Code, Sections 26801, 27021, 28186, 28213, 28345, and 28692 of the Health and Safety Code, Section 6423 of the Labor Code, and Sections 136, 146a, 171c, 171d, 219.2, 221, 272, 347b, 383, 490, 496a, 653.55, and 653.58 of the Penal Code, relating to fines.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 652 of the Business and Professions Code is amended to read:

652. Violation of this article in the case of a licensed person constitutes unprofessional conduct and grounds for suspension or revocation of his license by the board by whom he is licensed, or if a license has been issued in connection with a place of business then for the suspension or revocation of the place of business in connection with which the violation occurs. The proceedings for suspension or revocation shall be conducted in accordance with the Administrative Procedure Act, Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and each board shall have all the powers granted therein. In addition, any violation constitutes a

misdemeanor as to any and all persons offering, delivering, receiving, accepting or participating in any such rebate, refund, commission, preference, patronage dividend, unearned discount or consideration, whether or not licensed under this division. Such a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 2. Section 652.5 of the Business and Professions Code is amended to read:

652.5. Any violation of this article constitutes a misdemeanor as to any and all persons, whether or not licensed under this division. Such a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 2.5. Section 6128 of the Business and Professions Code is amended to read:

6128. Every attorney is guilty of a misdemeanor who either:

(a) Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party.

(b) Willfully delays his client's suit with a view to his own gain.

(c) Willfully receives any money or allowance for or on account of any money which he has not laid out or become answerable for.

Any violation of the provisions of this section is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 3. Section 6129 of the Business and Professions Code is amended to read:

6129. Every attorney who, either directly or indirectly, buys or is interested in buying any evidence of debt or thing in action, with intent to bring suit thereon, is guilty of a misdemeanor.

Any violation of the provisions of this section is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 3.5. Section 6153 of the Business and Professions Code is amended to read:

6153. Any person, firm, partnership, association, or corporation violating any of the provisions of this article is guilty of a misdemeanor, and is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

Any person employed either as an officer, director, trustee, clerk, servant or agent of this state or of any county or other municipal corporation or subdivision thereof, who is found guilty of violating any of the provisions of this article, shall forfeit the right to his office and employment in addition to any other penalty provided in this article.

SEC. 4. Section 17500 of the Business and Professions Code is

4624 262429 20

amended to read:

17500. It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, 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, concerning such real or personal property or services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, 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 for any such person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell such personal property or services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 5. Section 17531 of the Business and Professions Code is amended to read:

17531. It is unlawful for any person, firm, or corporation, in any newspaper, magazine, circular, form letter or any open publication, published, distributed or circulated in the State of California or on any billboard, card, label or other advertising medium, or by means of any other advertising device, to advertise, call attention to or give publicity to the sale of any merchandise, which merchandise is secondhand or used merchandise, or which merchandise is defective in any manner, or which merchandise consists of articles or units or parts known as "seconds," or blemished merchandise, or which merchandise has been rejected by the manufacturer thereof as not first class, unless there be conspicuously displayed directly in connection with the name and description of such merchandise and each specified article, unit or part thereof, a direct and unequivocal statement, phrase, or word which will clearly indicate that such merchandise or each article, unit or part thereof so advertised is secondhand, used, defective, or consists of "seconds" or is blemished merchandise, or has been rejected by the manufacturer thereof, as the fact shall be. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 6. Section 17537 of the Business and Professions Code is amended to read:

17537. It is unlawful to notify any person by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving such prize he must purchase or rent any goods or services. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 7. Section 17538 of the Business and Professions Code is amended to read:

17538. It is unlawful in the sale or offering for sale of consumer goods or services for any person conducting a mail order or catalog business in this state or advertising a California mailing address to accept money through the mails from a consumer for consumer goods or services ordered by mail or telephone and then permit six weeks, unless otherwise stated in the advertisement, to elapse without doing any one of the following things:

(a) Delivering or mailing the consumer goods or services ordered.

(b) Making a full refund.

(c) Sending the consumer a letter or notice advising him of the duration of an expected delay or the substitution of consumer goods or services of equivalent or superior quality, and offering to send him a refund within one week if he so requests. If the vendor proposes to substitute consumer goods or services, he shall describe it in detail, indicating how it differs from the consumer goods or services ordered.

(d) Sending the consumer substituted consumer goods or services of equivalent or superior quality, if the consumer is extended the opportunity to return the substituted goods or services and the seller promises to refund to the consumer the cost of returning such goods or services together with any portion of the purchase price previously paid by the consumer. A notice to the consumer stating the right to obtain a refund and the cost of returning the substituted consumer goods or services shall accompany the sending of such goods or services to the consumer.

For purposes of subdivisions (c) and (d), consumer goods or services may not be considered of "equivalent or superior quality" if they are not substantially similar to the goods or services ordered, or not fit for the usual purposes for which such consumer goods or services are used, or if the seller normally offers the substituted consumer goods or services at a price lower than the price of the consumer goods or services ordered.

(e) When a consumer makes an initial application for an open-end credit plan, as defined in the Federal Consumer Credit Protection Act (15 U.S.C. 1682), at the same time the consumer goods or services are ordered, and such goods or services are to be purchased on credit, the person conducting the mail order business shall have seven weeks, rather than six weeks, to perform the actions specified in this section.

(f) As used in this section and Section 17538.3:

(1) "Goods" means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of such real property, whether or not severable therefrom.

(2) "Person" means an individual, partnership, corporation, association, or other group, however organized.

(3) "Consumer" means an individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes.

(4) "Services" means work, labor, and services for other than a commercial or business use, including services furnished in connection with the sale or repair of goods.

Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both.

SEC. 8. Section 17538.5 of the Business and Professions Code is amended to read:

17538.5. It is unlawful in the sale or offering for sale of consumer goods or services for any person conducting a mail order or catalog business in this state and utilizing a post office box address to fail to disclose the legal name under which business is done and the complete street address from which business is actually conducted in all advertising and promotional materials, including order blanks and forms. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 9. Section 17538.7 of the Business and Professions Code is amended to read:

17538.7. It is unlawful, with respect to attempted collection of a consumer debt, for a creditor or collection agency or an agent, employee or assignee of a creditor or collection agency, or an attorney for any of the foregoing, to send a communication which simulates legal or judicial process or which gives the appearance of being authorized, issued, or approved by a governmental agency or attorney when it is not. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 11. Section 17572 of the Business and Professions Code is amended to read:

17572. Any person who violates this article is guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed six months, or a fine of not to exceed five hundred dollars ($500), or by both, for each violation.

SEC. 12. Section 17830 of the Business and Professions Code is

amended to read:

17830. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 13. Section 26801 of the Health and Safety Code is amended to read:

26801. Any person who violates any provision of this division or any regulation adopted pursuant to this division is guilty of a misdemeanor and shall, if convicted, be subject to imprisonment for not more than six months in the county jail or a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine. If the violation is committed after a previous conviction under this section which has become final, or if the violation is committed with intent to defraud or mislead, the person shall be subject to imprisonment for not more than one year in the county jail or a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine.

SEC. 13.1. Section 27021 of the Health and Safety Code is amended to read:

27021. (a) Any person who violates any of the provisions of this chapter or the rules and regulations promulgated under this chapter is subject to imprisonment for not more than six months or a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, or the violation is committed with intent to defraud or mislead, the person shall be subject to imprisonment for not more than one year, or a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine.

(b) No person shall be subject to the penalties of subdivision (a) for having violated provisions of this chapter if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the State of California from whom he received in good faith the article, to the effect that such article conforms to all provisions of this chapter, designating this chapter.

If the guaranty is to the effect that such article is not in violation within the meaning of the federal act, as provided in Section 303(c) of the federal act, it shall be sufficient for all the purposes of this chapter and have the same force and effect as though it referred to this chapter, unless at any time the standard for the article concerned under this chapter is higher than the standard for a like article under the federal act.

(c) No publisher, radio or television broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section for the dissemination of such false advertisement, unless he has refused, on the request of the department, to furnish the department the name

and post office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the State of California who caused him to disseminate such advertisement.

SEC. 13.2. Section 28186 of the Health and Safety Code is amended to read:

28186. Any person, firm, corporation, or agent violating any of the provisions of this chapter, or any rule or regulation issued pursuant to this chapter, shall upon conviction be punished for the first offense by a fine not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both.

SEC. 13.3. Section 28213 of the Health and Safety Code is amended to read:

28213. Any person who violates this chapter is guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment in the city or county jail for a term not to exceed six months, or both such fine and imprisonment.

SEC. 13.4. Section 28345 of the Health and Safety Code is amended to read:

28345. Any person, whether as principal or agent, employer or employee, who violates any of the provisions of this chapter is guilty of a misdemeanor punishable upon conviction by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. Each day's violation is a separate and distinct offense.

SEC. 13.5. Section 28692 of the Health and Safety Code is amended to read:

28692. Any person who violates any provision of this chapter is guilty of a misdemeanor. Each offense shall be punished by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

The owner, manager, or operator of any restaurant, itinerant restaurant, vehicle, or vending machine is responsible for any violation of any provision of this chapter.

SEC. 13.6. Section 6423 of the Labor Code is amended to read:

6423. Except where another penalty is specifically provided, every employer, and every officer, management official, or supervisor having direction, management, control, or custody of any employment, place of employment, or other employee, who does any of the following shall be guilty of a misdemeanor:

(a) Knowingly or negligently violates any standard, order, or special order, or any provision of this division, or of any part thereof in, or authorized by, this part the violation of which is deemed to be a serious violation pursuant to Section 6432.

(b) Repeatedly violates any standard, order, or special order, or provision of this division, or any part thereof in, or authorized by, this part, which repeated violation creates a real and apparent hazard to employees.

(c) Fails or refuses to comply, after notification and expiration of any abatement period, with any such standard, order, special order, or provision of this division, or any part thereof, which failure or refusal creates a real and apparent hazard to employees.

(d) Directly or indirectly, knowingly induces another to do any of the above.

Any violation of the provisions of this section is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five thousand dollars ($5,000), or by both.

SEC. 13.7. Section 136 of the Penal Code is amended to read:

136. (a) Every person who willfully and unlawfully prevents or dissuades any person who is or may become a witness, from attending upon any trial, proceeding, or inquiry, authorized by law, is guilty of a misdemeanor.

(b) Every person who willfully and unlawfully prevents or dissuades by means of force or threats of unlawful injury to person or property, any person who is or may become a witness, from attending upon any trial, proceeding, or inquiry, authorized by law, is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the state prison not less than one nor more than five years, or by both such fine and imprisonment in the county jail or in the state prison.

SEC. 13.8. Section 146a of the Penal Code is amended to read:

146a. Any person who falsely represents himself to be a public officer, or investigator, inspector, deputy or clerk in any state department and in such assumed character arrests or detains or threatens to arrest or detain, or otherwise intimidates any person or searches the person, building, or other property of any person, or obtains money, or property, or other thing of value, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 13.9. Section 171c of the Penal Code is amended to read:

171c. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer, a member of the military forces of this state or the United States engaged in the performance of his duties, or a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, who brings a loaded firearm into, or possesses a loaded firearm within, the State Capitol, any legislative office, any office of the Governor or other constitutional officer, or any hearing room in

which any committee of the Senate or Assembly is conducting a hearing, or upon the grounds of the State Capitol, which is bounded by 10th, L, 15th, and N Streets in the City of Sacramento, shall be punished by imprisonment in the county jail for a period of not more than six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or both such imprisonment and fine, or by imprisonment in the state prison for a period of not more than five years.

SEC. 13.10. Section 171d of the Penal Code is amended to read:

171d. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, full-time paid peace officer of another state who is carrying out official duties while in California, or any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer, or a full-time paid peace officer of the federal government, whether on active duty or honorably retired, or a member of the military forces of this state or of the United States engaged in the performance of his duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 of the Penal Code, or the Governor or a member of his immediate family or a person acting with his permission with respect to the Governor's Mansion or any other residence of the Governor, any other constitutional officer or a member of his immediate family or a person acting with his permission with respect to such officer's residence, or a Member of the Legislature or a member of his immediate family or a person acting with his permission with respect to such legislator's residence, shall be punished by imprisonment in the county jail for not more than six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both such fine and imprisonment, or by imprisonment in the state prison for not more than five years if, with intent to commit a crime, he does any of the following:

1. Brings a loaded firearm into, or possesses a loaded firearm within, the Governor's Mansion, or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

2. Brings a loaded firearm upon, or possesses a loaded firearm upon, the grounds of the Governor's Mansion or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

Possession of a loaded firearm as herein provided, shall be deemed reasonable cause for a peace officer to make an arrest under the provisions of this section.

SEC. 14. Section 219.2 of the Penal Code is amended to read:

219.2. Every person who willfully throws, hurls, or projects a stone or other hard substance, or shoots a missile, at a train, locomotive, railway car, caboose, cable railway car, street railway car, or bus or at a steam vessel or watercraft used for carrying passengers

or freight on any of the waters within or bordering on this state, is punishable by imprisonment in the county jail not exceeding six months, or in a state prison not exceeding three years, or by fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 15. Section 221 of the Penal Code is amended to read:

221. Every person who is guilty of an assault, with intent to commit any felony, except an assault with intent to commit murder, the punishment for which assault is not prescribed by the preceding section, is punishable by imprisonment in the state prison not exceeding 15 years, or in a county jail not exceeding one year, or by fine not exceeding one thousand dollars ($1,000), or by both.

SEC. 16. Section 272 of the Penal Code is amended to read:

272. Every person who commits any act or omits the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of 18 years to come within the provisions of Sections 600, 601, or 602 of the Welfare and Institutions Code or which act or omission contributes thereto, or any person who, by any act or omission, or by threats, commands, or persuasion, induces or endeavors to induce any person under the age of 18 years or any ward or dependent child of the juvenile court to fail or refuse to conform to a lawful order of the juvenile court, or to do or to perform any act or to follow any course of conduct or to so live as would cause or manifestly tend to cause any such person to become or to remain a person within the provisions of Sections 600, 601, or 602 of the Welfare and Institutions Code, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in a county jail, or may be released on probation for a period not exceeding five years. The district attorney shall prosecute all violations charged under this section.

SEC. 17. Section 347b of the Penal Code is amended to read:

347b. It shall be unlawful for any person, firm or corporation to manufacture, sell, furnish, or give away, or offer to manufacture, sell, furnish, or give away any alcoholic solution of a potable nature containing any deleterious or poisonous substance, and the burden of proof shall be upon the person, firm, or corporation manufacturing, selling, furnishing, or giving away, or offering to manufacture, sell, furnish, or give away, any such alcoholic solution of a potable nature containing any deleterious or poisonous substance, to show that such alcoholic solution of a potable nature did not contain any deleterious or poisonous substance. Every person who violates any of the provisions of this section is guilty of a misdemeanor, and shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 18. Section 383 of the Penal Code is amended to read:

383. Every person who knowingly sells, or keeps or offers for sale, or otherwise disposes of any article of food, drink, drug, or medicine, knowing that the same is adulterated or has become tainted, decayed, spoiled, or otherwise unwholesome or unfit to be eaten or drunk, with intent to permit the same to be eaten or drunk, is guilty of a misdemeanor, and must be fined not exceeding one thousand dollars ($1,000), or imprisoned in the county jail not exceeding six months, or both, and may, in the discretion of the court, be adjudged to pay, in addition, all the necessary expenses, not exceeding one thousand dollars ($1,000), incurred in inspecting and analyzing such articles. The term "drug," as used herein, includes all medicines for internal or external use, antiseptics, disinfectants, and cosmetics. The term "food," as used herein, includes all articles used for food or drink by man, whether simple, mixed, or compound. Any article is deemed to be adulterated within the meaning of this section:

(a) In case of drugs: (1) if, when sold under or by a name recognized in the United States Pharmacopoeia, it differs materially from the standard of strength, quality, or purity laid down therein; (2) if, when sold under or by a name not recognized in the United States Pharmacopoeia, but which is found in some other pharmacopoeia or other standard work on materia medica, it differs materially from the standard of strength, quality, or purity laid down in such work; (3) if its strength, quality, or purity falls below the professed standard under which it is sold.

(b) In the case of food: (1) if any substance or substances have been mixed with it, so as to lower or depreciate, or injuriously affect its quality, strength, or purity; (2) if any inferior or cheaper substance or substances have been substituted wholly or in part for it; (3) if any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it; (4) if it is an imitation of, or is sold under the name of, another article; (5) if it consists wholly, or in part, of a diseased, decomposed, putrid, infected, tainted, or rotten animal or vegetable substance or article, whether manufactured or not; or in the case of milk, if it is the produce of a diseased animal; (6) if it is colored, coated, polished, or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is; (7) if it contains any added substance or ingredient which is poisonous or injurious to health.

SEC. 19. Section 490 of the Penal Code is amended to read:

490. Petty theft is punishable by fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or both.

SEC. 20. Section 496a of the Penal Code is amended to read:

496a. (a) Every person who, being a dealer in or collector of junk, metals or secondhand materials, or the agent, employee, or representative of such dealer or collector, buys or receives any wire, cable, copper, lead, solder, mercury, iron or brass which he knows or reasonably should know is ordinarily used by or ordinarily belongs to a railroad or other transportation, telephone, telegraph, gas, water or

electric light company or county, city, city and county or other political subdivision of this state engaged in furnishing public utility service without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving such property, and is punishable, by imprisonment in a state prison for not more than five years, or in a county jail for not more than one year, or by a fine of not more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(b) Any person buying or receiving material pursuant to subdivision (a) shall obtain evidence of his identity from the seller including, but not limited to, such person's full name, signature, address, driver's license number, vehicle license number, and the license number of the vehicle delivering the material.

The record of the transaction shall include an appropriate description of the material purchased and such record shall be maintained pursuant to Section 21607 of the Business and Professions Code.

SEC. 22. Section 653.55 of the Penal Code is amended to read:

653.55. It is a misdemeanor for any person for compensation to knowingly make a false or misleading material statement or assertion of fact in the preparation of an immigration matter which statement or assertion is detrimentally relied upon by another. Such a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

SEC. 23. Section 653.58 of the Penal Code is amended to read:

653.58. Any person who intentionally violates any injunction issued pursuant to Section 653.57 shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation.

CHAPTER 1126

An act to amend Sections 241, 243 and 245 of, and to add Section 243.1 to, the Penal Code, relating to assault and battery.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 241 of the Penal Code is amended to read:

241. An assault is punishable by fine not exceeding five hundred dollars ($500), 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 not exceeding two years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, subparagraph (A) of paragraph (11) of subdivision (a) of Section 830.4, 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.

SEC. 2. Section 241 of the Penal Code is amended to read:

241. An assault is punishable by fine not exceeding five hundred dollars ($500), 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, subparagraph (A) of paragraph (11) of subdivision (a) of Section 830.4, 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.

SEC. 3. 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, by subdivisions (a) to (e), inclusive, of Section 830.2, subparagraph (A) of paragraph (11)

of subdivision (a) of Section 830.4, 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.

SEC. 4. 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. 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 two, three, or four years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, subparagraph (A) of paragraph (11) of subdivision (a) of Section 830.4, 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.

SEC. 5. Section 243.1 is added to the Penal Code, to read:

243.1. When a battery is committed against the person of a custodial officer as defined in Section 831 of the Penal Code, and the person committing the offense knows or reasonably should know that such victim is a custodial officer engaged in the performance of his duties, and such custodial officer 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.

SEC. 6. Section 243.1 is added to the Penal Code, to read:

243.1. When a battery is committed against the person of a custodial officer as defined in Section 831 of the Penal Code, and the person committing the offense knows or reasonably should know that such victim is a custodial officer engaged in the performance of

his duties, and such custodial officer is engaged in the performance of his duties, the offense shall be punished by imprisonment in the state prison for 16 months, or two or three years.

SEC. 7. Section 245 of the Penal Code is amended to read:

245. (a) Every person who commits an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state prison for six months to life, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment. When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

(b) Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer or fireman, and who knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, when such peace officer or fireman is engaged in the performance of his duties shall be punished by imprisonment in the state prison for six months to life; provided, that if such person has previously been convicted of a felony under the laws of this state or has previously been convicted of an offense under the laws of any other state or of the United States which, if committed in this state, would have been punishable as a felony, he shall be punished by imprisonment in the state prison for five years to life.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, Section 830.2, subparagraph (A) of paragraph (11) of subdivision (a) of Section 830.4, 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.

SEC. 8. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 241 of the Penal Code, and this bill is chaptered after Senate Bill No. 42, that Section 241 of the Penal Code, as amended by Section 1 of this act shall remain operative only until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Section 241 of the Penal Code as amended by Section 1 of this act be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 241 proposed by Senate Bill No. 42. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 241, and this bill is chaptered after Senate Bill No. 42, in

which case Section 2 of this act shall become operative on the operative date of Senate Bill No. 42.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 243 of the Penal Code, and this bill is chaptered after Senate Bill No. 42, that Section 243 of the Penal Code, as amended by Section 3 of this act shall remain operative only until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Section 243 of the Penal Code as amended by Section 3 of this act be further amended in the form set forth in Section 4 of this act to incorporate the changes in Section 243 proposed by Senate Bill No. 42. Therefore, Section 4 of this act shall become operative only if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 243, and this bill is chaptered after Senate Bill No. 42, in which case Section 4 of this act shall become operative on the operative date of Senate Bill No. 42.

SEC. 10. Section 7 of this act shall be operative only until the operative date of Senate Bill No. 42 and on such date is repealed.

SEC. 11. Section 6 of this act shall be operative only if Senate Bill No. 42 of the 1975–76 Regular Session is chaptered in which case Section 5 of this act shall not be operative.

CHAPTER 1127

An act to add Section 12020.5 to the Penal Code, relating to advertising.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 12020.5 is added to the Penal Code, to read:

12020.5. It shall be unlawful for any person, firm, corporation, or association, in any newspaper, magazine, circular, form letter, or open publication, published, distributed, or circulated in this state, or on any billboard, card, label, or other advertising medium, or by means of any other advertising device, to advertise the sale of any weapon or device whose possession is prohibited by Section 12020.

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 which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1128

An act to amend Section 1237.5 of the Penal Code, relating to criminal cases.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 1237.5 of the Penal Code is amended to read:

1237.5. No appeal shall be taken by defendant from a judgment of conviction upon a plea of guilty or nolo contendere, or a revocation of probation following an admission of violation, except where:

(a) The defendant has filed with the trial court a written statement, executed under oath or penalty of perjury showing reasonable constitutional, jurisdictional, or other grounds going to the legality of the proceedings; and

(b) The trial court has executed and filed a certificate of probable cause for such appeal with the county clerk.

CHAPTER 1129

An act to add Section 636.5 to the Penal Code, relating to radio communications.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 636.5 is added to the Penal Code, to read:

636.5. Any person not authorized by the sender, who intercepts any police radio service communication, and who divulges to any person he knows to be a suspect in the commission of any criminal offense, the existence, contents, substance, purport, effect or meaning of such communication concerning such offense with the intent that such suspect may avoid or escape from arrest, trial, conviction, or punishment is guilty of a misdemeanor.

Nothing in this section shall preclude prosecution of any person under Section 31 or 32.

As used in this section "police radio service communication" means a communication authorized by the Federal Communications Commission to be transmitted by a station in the police radio service.

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 which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1130

An act to repeal and add Sections 241.4, 243.4, and 245.4 to the Penal Code, relating to peace officers.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 241.4 is added to the Penal Code, to read:

241.4. An assault is punishable by fine not exceeding five hundred dollars ($500), 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, and the person committing the offense knows or reasonably should know that such victim is a peace officer engaged in the performance of his duties, and such peace officer 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 not exceeding two years.

As used in this section, "peace officer" refers to any person designated as a peace officer by paragraph (13) of subdivision (a) of Section 830.4.

SEC. 2. Section 241.4 is added to the Penal Code, to read:

241.4. An assault is punishable by fine not exceeding five hundred dollars ($500), 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, and the person committing the offense knows or reasonably should know that such victim is a peace officer engaged in the performance of his duties, and such peace officer 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by paragraph (13) of subdivision (a) of Section 830.4.

This section shall become operative July 1, 1977.

SEC. 3. Section 243.4 is added to the Penal Code, to read:

243.4. 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, and the person committing the offense

knows or reasonably should know that such victim is a peace officer engaged in the performance of his duties, and such peace officer 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by paragraph (13) of subdivision (a) of Section 830.4.

SEC. 4. Section 243.4 is added to the Penal Code, to read:

243.4. 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, and the person committing the offense knows or reasonably should know that such victim is a peace officer engaged in the performance of his duties, and such peace officer 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by paragraph (13) of subdivision (a) of Section 830.4

This section shall become operative July 1, 1977.

SEC. 5. Section 245.4 is added to the Penal Code, to read:

245.4. Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer, and who knows or reasonably should know that such victim is a peace officer engaged in the performance of his duties, when such peace officer is engaged in the performance of his duties shall be punished by imprisonment in the state prison for six months to life; provided, that if such person has previously been convicted of a felony under the laws of this state or has previously been convicted of an offense under the laws of any other state or of the United States which, if committed in this state, would have been punishable as a felony, he shall be punished by imprisonment in the state prison for five years to life.

When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

As used in this section, "peace officer" refers to any person designated as a peace officer by paragraph (13) of subdivision (a) of Section 830.4.

SEC. 6. Section 245.4 is added to the Penal Code, to read:

245.4. Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer, and who knows or

reasonably should know that such victim is a peace officer engaged in the performance of his duties, when such peace officer is engaged in the performance of his duties shall be punished by imprisonment in the state prison for three, four, or five years.

When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

As used in this section, "peace officer" refers to any person designated as a peace officer by paragraph (13) of subdivision (a) of Section 830.4.

This section shall become operative July 1, 1977.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective on or before January 1, 1977, that Sections 241.4, 243.4, and 245.4 of the Penal Code, as added by Sections 1, 3, and 5 of this bill, respectively, shall remain operative until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Sections 241.4, 243.4, and 245.4 of the Penal Code, as added by Sections 1, 3, and 5 are repealed and Sections 241.4, 243.4, and 245.4 of the Penal Code as added by Sections 2, 4, and 6, of this act, respectively, shall become operative.

CHAPTER 1131

An act to add Section 490.5 to the Penal Code, and to add Section 731.5 to the Welfare and Institutions Code, relating to theft.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 490.5 is added to the Penal Code, to read:

490.5. (a) Upon a first conviction for petty theft involving merchandise taken from a merchant's premises a person shall be punished by a mandatory fine of not less than fifty dollars ($50) and not more than one thousand dollars ($1,000) for each such violation; and may also be punished by imprisonment in the county jail, not exceeding six months, or both such fine and imprisonment.

(b) When an unemancipated minor's willful conduct would constitute petty theft involving merchandise taken from a merchant's premises, any merchant who has been injured by such conduct may bring a civil action against the parent or legal guardian having control and custody of the minor. For the purposes of such actions the misconduct of the unemancipated minor shall be imputed to the parent or legal guardian having control and custody

of the minor. The parent or legal guardian having control or custody of an unemancipated minor whose conduct violates this subdivision shall be jointly and severally liable with the minor to the merchant for the retail value of the merchandise, if not recovered in merchantable condition plus damages of not less than fifty dollars ($50) nor more than five hundred dollars ($500) plus costs. Recovery of such damages may be had in addition to, and is not limited by, any other provision of law which limits the liability of a parent or legal guardian for the tortious conduct of a minor. An action for recovery of damages, pursuant to this subdivision, may be brought in small claims court if the total damages do not exceed the jurisdictional limit of such court, or in any other appropriate court; however, total damages, including the value of the merchandise, shall not exceed five hundred dollars ($500) for each action brought under this section.

The provisions of this subdivision are in addition to other civil remedies and do not limit merchants or other persons to elect to pursue other civil remedies, except that the provisions of Section 1714.1 of the Civil Code shall not apply herein.

(c) In lieu of the fines prescribed by subdivision (a), any person may be required to perform public services designated by the court, provided that in no event shall any such person be required to perform less than the number of hours of such public service necessary to satisfy the fine assessed by the court as provided by subdivision (a) at the minimum wage prevailing in the state at the time of sentencing.

(d) All fines collected under this section shall be collected and distributed in accordance with Sections 1463 and 1463.1 of the Penal Code; provided, however, that a county may, by a majority vote of the members of its board of supervisors, allocate any amount up to, but not exceeding 50 percent of such fines to the county superintendent of schools for allocation to local school districts. The fines allocated shall be administered by the county superintendent of schools to finance public school programs, which provide counseling or other educational services designed to discourage shoplifting, theft, and burglary. Subject to rules and regulations as may be adopted by the Superintendent of Public Instruction, each county superintendent of schools shall allocate such funds to school districts within the county which submit project applications designed to further the educational purposes of this section. The costs of administration of this section by each county superintendent of schools shall be paid from the funds allocated to the county superintendent of schools.

(e) (1) A merchant may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the merchant has probable cause to believe the person to be detained is attempting to unlawfully take or has unlawfully taken merchandise from the merchant's premises.

(2) In making the detention a merchant may use a reasonable

amount of nondeadly force necessary to protect himself and to prevent escape of the person detained or the loss of property.

(3) During the period of detention any items which a merchant has reasonable cause to believe are unlawfully taken from his premises and which are in plain view may be examined by the merchant for the purposes of ascertaining the ownership thereof.

(4) In any action for false arrest, false imprisonment, slander or unlawful detention brought by any person detained by a merchant, it shall be a defense to such action that the merchant detaining such person had probable cause to believe that the person had stolen or attempted to steal merchandise and that the merchant acted reasonably under all the circumstances.

(f) As used in this section:

(1) "Merchandise" means any personal property, capable of manual delivery, displayed, held or offered for retail sale by a merchant.

(2) "Merchant" means an owner or operator, and the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises used for the retail purchase or sale of any personal property capable of manual delivery.

SEC. 2. Section 731.5 is added to the Welfare and Institutions Code, to read:

731.5. In addition to the provisions of Section 731, if a minor's conduct constitutes a violation of Section 490.5 of the Penal Code, the court may require the minor to perform public services designated by the court.

SEC. 3. The provisions of subdivision (e) of Section 490.5 as added to the Penal Code by the 1975–76 Regular Session of the Legislature do not constitute a change in, but are declaratory of, the existing law, and such provisions shall not be interpreted to amend or modify Sections 837, 847, and 849 of the Penal Code.

CHAPTER 1132

An act to add Section 11352.5 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 11352.5 is added to the Health and Safety Code, to read:

11352.5. The court shall impose a fine not exceeding fifty thousand dollars ($50,000), in the absence of a finding that the defendant would be incapable of paying such a fine, in addition to any term of imprisonment provided by law for any of 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.

CHAPTER 1133

An act to add and repeal Section 245.2 to the Penal Code, relating to assault.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 245.2 is added to the Penal Code, to read:

245.2. Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer, and who knows or reasonably should know that such victim is a peace officer engaged in the performance of his duties, when such peace officer is engaged in the performance of his duties shall be punished by imprisonment in the state prison for six months to life; provided, that if such person has previously been convicted of a felony under the laws of this state or has previously been convicted of an offense under the laws of any other state or of the United States which, if committed in this state, would have been punishable as a felony, he shall be punished by imprisonment in the state prison for five years to life. When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

As used in this section, "peace officer" refers to any person designated as a peace officer by subdivision (a) of Section 830.3.

SEC. 2. Section 245.2 is added to the Penal Code, to read:

245.2. Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer, and who knows or

reasonably should know that such victim is a peace officer engaged in the performance of his duties, when such peace officer or fireman is engaged in the performance of his duties shall be punished by imprisonment in the state prison for three, four, or five years. When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

As used in this section, "peace officer" refers to any person designated as a peace officer by subdivision (a) of Section 830.3.

This section shall become operative July 1, 1977.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective on or before January 1, 1977, that Section 245.2 of the Penal Code, as added by Section 1 of this bill shall remain operative until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Section 245.2 of the Penal Code, as added by Section 1 is repealed and Section 245.2 of the Penal Code as added by Section 2 of this act shall become operative.

CHAPTER 1134

An act to add and repeal Section 11487 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 11487 is added to the Health and Safety Code, to read:

11487. Each city, county, or state agency coming into possession of a controlled substance pursuant to the provisions of this chapter shall report semiannually to the Attorney General the amounts, kind, and disposition of controlled substances so seized.

The reports provided for by this section shall be in a form and contain such information as determined necessary by the Attorney General.

The Attorney General shall issue an annual report to the Governor and Legislature correlating and summarizing the reports provided for by this section.

This section shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 2. No appropriation is made by 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 1135

An act to add Section 1203.11 to, the Penal Code, relating to crimes.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 1203.11 is added to the Penal Code, to read:

1203.11. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any adult person convicted of a designated felony who has been previously convicted as an adult under charges separately brought and tried two or more times of any designated felony or in any other place of a public offense which, if committed in this state, would have been punishable as a designated felony, if all the convictions occurred within a 10-year period.

(b) (1) 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.

(2) Except where the existence of such fact was not admitted or found to be true pursuant to paragraph (1), or the court finds that a prior conviction was invalid, the court shall not strike or dismiss any prior convictions alleged in the information or indictment.

(3) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(c) As used in this section "designated felony" means any felony specified in Section 187, 192, 207, 209, 211, 217, 245, 288, or subdivision (2), (3), or (4) of Section 261, subdivision 1 of Section 460, or when great bodily injury occurs in perpetration of an assault to commit robbery, mayhem, or rape, as defined in Section 220.

CHAPTER 1136

An act to amend Section 11371 of, and to add and repeal Section 11371.1 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 11371 of the Health and Safety Code is amended to read:

11371. Any person who shall violate any of the provisions of Section 11152, 11153, 11154, 11155, or 11156 with respect to (1) 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, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment in the state prison not exceeding six years or in a county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars ($20,000), or by both such fine and imprisonment.

SEC. 2. Section 11371 of the Health and Safety Code is amended to read:

11371. Any person who shall violate any of the provisions of Section 11152, 11153, 11154, 11155, or 11156 with respect to (1) 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, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars ($20,000), or by both such fine and imprisonment.

SEC. 3. Section 11371.1 is added to the Health and Safety Code, to read:

11371.1. Any person who shall violate any of the provisions of Section 11173 or 11174 with respect to (1) 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, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor

shall commit any such offense, shall be punished by imprisonment in the state prison not exceeding six years or in a county jail not exceeding one year.

SEC. 4. Section 11371.1 is added to the Health and Safety Code, to read:

11371.1. Any person who shall violate any of the provisions of Section 11173 or 11174 with respect to (1) 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, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, that Section 3 of this act shall remain operative only until the operative date of Senate Bill No. 42 and that Section 4 of this act became operative on the operative date of Senate Bill No. 42.

Therefore, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, Section 3 of this act shall remain operative only until the operative date of Senate Bill No. 42 and on the operative date of Senate Bill No. 42 Section 3 of this act is repealed. Section 4 of this act shall become operative on the operative date of Senate Bill No. 42.

SEC. 6. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 11371 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 42, that Section 11371 of the Health and Safety Code, as amended by Section 1 of this act shall remain operative only until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Section 11371 of the Health and Safety Code as amended by Section 1 of this act be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 11371 proposed by Senate Bill No. 42. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 11371, and this bill is chaptered after Senate Bill No. 42, in which case Section 2 of this act shall become operative on the operative date of Senate Bill No. 42.

CHAPTER 1137

An act to amend Section 148.1 of the Penal Code, relating to crimes.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 148.1 of the Penal Code is amended to read:

148.1. (a) Any person who reports to any police officer, sheriff, employee of a fire department or fire service, district attorney, newspaper, radio station, television station, deputy sheriff, deputy district attorney, member of the California Highway Patrol, employees of the Department of Justice, employees of an airline, employees of an airport, employees of a railroad or busline, an employee of a telephone company, occupants of a building or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been or will be placed or secreted in any public or private place knowing that such report is false, is guilty of a crime punishable by imprisonment in the state prison not to exceed three years, or imprisonment in the county jail not to exceed one year.

(b) Any person who maliciously informs any other person that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that such information is false, is guilty of a crime punishable by imprisonment in the state prison not to exceed three years, or imprisonment in the county jail not to exceed one year.

(c) Any person who maliciously gives, mails, sends, or causes to be sent any false or facsimile bomb to another person, or places or causes to be placed any false or facsimile bomb, with the intent that any other person think it is a real bomb and with knowledge that it is a false or facsimile bomb, is guilty of a crime punishable by imprisonment in the state prison not to exceed three years, or by imprisonment in the county jail not to exceed one year.

SEC. 2. Section 148.1 of the Penal Code is amended to read:

148.1. (a) Any person who reports to any police officer, sheriff, employee of a fire department or fire service, district attorney, newspaper, radio station, television station, deputy sheriff, deputy district attorney, member of the California Highway Patrol, employees of the Department of Justice, employees of an airline, employees of an airport, employees of a railroad or busline, an employee of a telephone company, occupants of a building or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been or will be placed or secreted in any public or private place knowing that such report is false, is guilty of a crime punishable by imprisonment in the state prison, or

imprisonment in the county jail not to exceed one year.

(b) Any person who maliciously informs any other person that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that such information is false, is guilty of a crime punishable by imprisonment in the state prison not to exceed three years, or imprisonment in the county jail not to exceed one year.

(c) Any person who maliciously gives, mails, sends, or causes to be sent any false or facsimile bomb to another person, or places or causes to be placed any false or facsimile bomb, with the intent that any other person thinks it is a real bomb and with knowledge that it is a false or facsimile bomb, is guilty of a crime punishable by imprisonment in the state prison, or by imprisonment in the county jail not to exceed one year.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 148.1 of the Penal Code, and this bill is chaptered after Senate Bill No. 42, that Section 148.1 of the Penal Code, as amended by Section 1 of this act shall remain operative only until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Section 148.1 of the Penal Code as amended by Section 1 of this act be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 148.1 proposed by Senate Bill No. 42. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 148.1, and this bill is chaptered after Senate Bill No. 42, in which case Section 2 of this act shall become operative on the operative date of Senate Bill No. 42.

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 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 1138

An act to amend Sections 241, 243, and 245 of the Penal Code, relating to crimes.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 241 of the Penal Code is amended to read:

241. An assault is punishable by fine not exceeding five hundred dollars ($500), 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 not exceeding two years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, 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.

SEC. 2. Section 241 of the Penal Code is amended to read:

241. An assault is punishable by fine not exceeding five hundred dollars ($500), 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, 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.

SEC. 3. 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, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, 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.

SEC. 4. 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. 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 two, three, or four years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, 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.

SEC. 5. Section 245 of the Penal Code is amended to read:

245. (a) Every person who commits an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state prison for six months to life, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment. When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

(b) Every person who commits an assault with a deadly weapon

4685 297225 857

or instrument or by any means likely to produce great bodily injury upon the person of a peace officer or fireman, and who knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, when such peace officer or fireman is engaged in the performance of his duties shall be punished by imprisonment in the state prison for six months to life; provided, that if such person has previously been convicted of a felony under the laws of this state or has previously been convicted of an offense under the laws of any other state or of the United States which, if committed in this state, would have been punishable as a felony, he shall be punished by imprisonment in the state prison for five years to life.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, 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.

SEC. 6. Section 245 of the Penal Code is amended to read:

245. (a) Every person who commits an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state prison for two, three, or four years, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment. When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

(b) Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer or fireman, and who knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, when such peace officer or fireman is engaged in the performance of his duties shall be punished by imprisonment in the state prison for six months to life; provided, that if such person has previously been convicted of a felony under the laws of this state or has previously been convicted of an offense under the laws of any other state or of the United States which, if committed in this state, would have been punishable as a felony, he shall be punished by imprisonment in the state prison for three, four, or five years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, 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.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 241 of the Penal Code, and this bill is chaptered after Senate Bill No. 42, that Section 241 of the Penal Code, as amended by Section 1 of this act shall remain operative only until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Section 241 of the Penal Code as amended by Section 1 of this act be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 241 proposed by Senate Bill No. 42. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 241, and this bill is chaptered after Senate Bill No. 42, in which case Section 2 of this act shall become operative on the operative date of Senate Bill No. 42.

SEC. 8. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 243 of the Penal Code, and this bill is chaptered after Senate Bill No. 42, that Section 243 of the Penal Code, as amended by Section 3 of this act shall remain operative only until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Section 243 of the Penal Code as amended by Section 3 of this act be further amended in the form set forth in Section 4 of this act to incorporate the changes in Section 243 proposed by Senate Bill No. 42. Therefore, Section 4 of this act shall become operative only if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 243, and this bill is chaptered after Senate Bill No. 42, in which case Section 4 of this act shall become operative on the operative date of Senate Bill No. 42.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 245 of the Penal Code, and this bill is chaptered after Senate Bill No. 42, that Section 245 of the Penal Code, as amended by Section 5 of this act shall remain operative only until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Section 245 of the Penal Code as amended by Section 5 of this act be further amended in the form set forth in Section 6 of this act to incorporate the changes in Section 245 proposed by Senate Bill No. 42. Therefore, Section 6 of this act shall become operative only if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 245, and this bill is chaptered after Senate Bill No. 42, in which case Section 6 of this act shall become operative on the operative date of Senate Bill No. 42.

4685 297255 863

CHAPTER 1139

An act to amend Sections 585, 1701, 2141.5, 4390, 10238.6, and 11023 of the Business and Professions Code, to amend Sections 2985.2 and 2985.3 of the Civil Code, to amend Sections 2255, 2256, 22002, 25540, 25541, 27203, 29102, 29570, 31410, 31411, and 35301 of the Corporations Code, to amend Sections 25393 and 29042 of the Education Code, to amend Sections 220, 12012, 14720, 14722 15280, 29001, 29002, 29100, 29101, 29102, 29103, 29160, 29214, 29215, 29216, 29217, 29218, 29219, 29220, 29221, 29222, 29223, 29224, 29225, 29226, 29227, 29400, 29430, and 29431 of the Elections Code, to amend Sections 3531, 3532, 5018, 5019, 5603, 5606, and 5809 of the Financial Code, to amend Sections 17701, 18932, 18933, 19440, and 19441 of the Food and Agricultural Code, to amend Sections 1097, 1369, 1855, 3109, 6200, 6201, 9056, 14423, and 27443 of the Government Code, to amend Sections 304, 305, and 306 of the Harbors and Navigations Code, to amend Sections 1715, 7051, 11350, 11351, 11352, 11353, 11354, 11355, 11357, 11358, 11359, 11360, 11361, 11363, 11366, 11368, 11371, 11377, 11378, 11379, 11380, 11382, and 11383 of the Health and Safety Code, to amend Sections 556, 833, 1043, 1215.10, 1764.7, 1814, 11161, and 12660 of the Insurance Code, to amend Section 7771 of the Labor Code, to amend Section 1673 of the Military and Veterans Code, to amend Sections 18, 33, 38, 67, 68, 69, 71, 72, 85, 86, 92, 93, 95, 96, 99, 100, 107, 109, 110, 126, 136, 142, 148.1, 148.3, 148.4, 149, 153, 156, 157, 165, 171c, 171d, 181, 182, 190, 193, 204, 208, 209, 210, 211a, 213, 216, 217, 217.1, 218, 219, 219.1, 219.2, 220, 221, 226, 227, 237, 241, 243, 244, 245, 246, 264, 264.1, 265, 266, 266a, 266b, 266g, 266h, 266i, 267, 268, 273a, 273d, 274, 275, 276, 278, 280, 283, 284, 285, 286, 286.1, 288, 288a, 288b, 311.9, 313.4, 314, 337a, 337b, 337c, 337d, 337e, 337f, 337i, 337.3, 337.7, 347, 375, 382.5, 382.6, 405b, 424, 447a, 448a, 449a, 449b, 449c, 450a, 452, 454, 460, 461, 464, 470a, 470b, 473, 474, 475, 475a, 476, 476a, 478, 479, 484b, 484i, 487b, 487d, 489, 496, 496a, 499c, 499d, 500, 506b, 514, 520, 524, 529, 533, 535, 540, 541, 542, 543, 548, 560, 560.4, 577, 578, 580, 581, 587, 591, 593, 597, 606, 610, 617, 620, 625b, 626.9, 631, 632, 634, 635, 637, 647a, 653f, 654, 664, 666, 668, 1168, 1319.4, 2042, 3022, 3025, 3041, 3049, 3065, 4501, 4501.5, 4502, 4503, 4530, 4532, 4533, 4535, 4550, 4574, 4600, 5075, 5076, 5076.1, 5077, 5080, 5081, 5082, 6133, 11401, 12020, 12021, 12022, 12022.5, 12025, 12090, 12220, 12303, 12303.1, 12303.2, 12303.3, 12303.6, 12304, 12308, 12309, 12312, 12420, 12422, 12520, and 12560 of, to add Section 667.5 to, to add Chapter 4.5 (commencing with Section 1170) to Title 7 of Part 2, Article 2.5 (commencing with Section 2930) to Chapter 7 of Title 1 of Part 3, Article 1 (commencing with Section 3000) to Chapter 8 of Title 1 of Part 3 of, to add Sections 243.1, 3057, 3041.5, 3041.7, 5078, 12022.6, and 12022.7 to, to add and repeal Section 190.5 of, and to repeal Sections 18a, 18b, 644, 667, 671, 1168a, 1202b, 3024, 3047, 3047.5, 3048, 3048.5 as added by Chapter 934 of the 1945 Statutes, 3048.5 as added by Chapter 1381 of the 1947 Statutes, and 5078, to repeal Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3, and Chapter 5.5 (commencing with Section 6035) of Title 7

of Part 3 of, the Penal Code, to amend Section 25205 of the Public Resources Code, to amend Sections 7680, 7903, and 21407.6 of the Public Utilities Code, to amend Sections 14813, 16563, 19405, 19406, 19408, 25961, 25962, 25962.2, 30473, 30475, and 32555 of the Revenue and Taxation Code, to amend Sections 4463, 10851, 20001, 21464, 23101, 23106, 23110, and 42000 of the Vehicle Code, and to amend Sections 1001.5, 1257, 3002, 6330, 7326, 7330, 8101, and 14107 of the Welfare and Institutions Code, relating to imprisonment.

[Approved by Governor September 20, 1976 Filed with Secretary of State September 21, 1976.]

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

SECTION 1. Section 585 of the Business and Professions Code is amended to read:

585. Any person, company or association violating the provisions of this article is guilty of a felony and upon conviction thereof shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or by imprisonment in the state prison.

SEC. 2. Section 1701 of the Business and Professions Code is amended to read:

1701. Any person is for the first offense guilty of a misdemeanor and shall be punishable by a fine of not less than one hundred dollars ($100) or more than one thousand five hundred dollars ($1,500), or by imprisonment in the county jail for not to exceed six months, or both, and for the second or a subsequent offense is guilty of a felony and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or by imprisonment in the state prison, or by both such fine and imprisonment, who:

(a) Sells or barters or offers to sell or barter any dental degree or any license or transcript made or purporting to be made pursuant to the laws regulating the license and registration of dentists.

(b) Purchases or procures by barter any such diploma, license or transcript with intent that the same shall be used in evidence of the holder's qualification to practice dentistry, or in fraud of the laws regulating such practice.

(c) With fraudulent intent, makes or attempts to make, counterfeits or alters in a material regard any such diploma, certificate or transcript.

(d) Uses, attempts or causes to be used, any such diploma, certificate or transcript which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license to practice dentistry, or in order to procure registration as a dentist.

(e) In an affidavit, required of an applicant for examination, license or registration under this chapter, willfully makes a false statement in a material regard.

(f) Practices dentistry or offers to practice dentistry as it is defined in this chapter, either without a license, or when his license has been revoked or suspended.

(g) Under any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he is licensed, practices, advertises or in any other manner indicates that he is practicing or will practice dentistry.

SEC. 2.5. Section 2141.5 of the Business and Professions Code is amended to read:

2141.5. Any person who willfully, under circumstances or conditions which cause or create risk of great bodily harm, serious mental or physical illness, or death, practices or attempts to practice, or advertises or holds himself out as practicing, any system or mode of treating the sick or afflicted in this state, or diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other mental or physical condition of any person, without having at the time of so doing a valid, unrevoked certificate as provided in this chapter, or without being authorized to perform such act pursuant to a certificate obtained in accordance with some other provision of law, is punishable by imprisonment in the county jail for not exceeding one year or in the state prison.

The remedy provided in this section shall not preclude any other remedy provided by law.

SEC. 3. Section 4390 of the Business and Professions Code is amended to read:

4390. Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of a forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

Every person who has in his possession any drugs secured by such forged prescription shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

SEC. 5. Section 10238.6 of the Business and Professions Code is amended to read:

10238.6. Any person who does any of the following acts is guilty of a public offense punishable by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the state prison, or in a county jail not exceeding one (1) year or by both such fine and imprisonment.

(a) In any application to the commissioner or in any proceeding before him, or in any examination, audit or investigation made by him or on his authority, knowingly makes any false statement or representation, or, with knowledge of its falsity, files or causes to be filed in the office of the commissioner any false statement or

representation in a required report.

(b) Issues, circulates or publishes, or causes to be issued, circulated or published any advertisement, pamphlet, prospectus or circular concerning any real property security which contains any statement that is false or misleading, or otherwise likely to deceive a reader thereof, with knowledge that it contains such false, misleading or deceptive statement.

(c) In any respect willfully violates or fails to comply with any provision of this article, or willfully violates or fails, omits or neglects to obey, observe or comply with any order, decision, demand, requirement or permit, or any part or provisions thereof, of the commissioner under this article.

(d) With one or more other persons, conspires to violate any permit or order issued by the commissioner or any provision of this article.

SEC. 6. Section 11023 of the Business and Professions Code is amended to read:

11023. Any person who violates any of the provisions of Section 11010, or Section 11010.1, or Section 11013.1, or Section 11013.2, or Section 11013.4 or Section 11018.2, or Section 11019, or Section 11022 or Section 11018.7 of this code shall be guilty of a public offense punishable by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the state prison, or in the county jail not exceeding one (1) year, or by both such fine and imprisonment.

SEC. 7. Section 2985.2 of the Civil Code is amended to read:

2985.2. Any person, or the assignee of such person, who sells a parcel of land under a sales contract which is not recorded and who thereafter causes an encumbrance or encumbrances not consented to in writing by the parties upon such property in an amount which, together with existing encumbrances thereon exceeds the amount then due under the contract, or under which the aggregate amount of any periodic payments exceeds the periodic payments due on the contract, excluding any pro rata amount for insurance and taxes, shall be guilty of a public offense punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 8. Section 2985.3 of the Civil Code is amended to read:

2985.3. Every seller of improved or unimproved real property under a real property sales contract, or his assignee, who knowingly receives an installment payment from the buyer under a real property sales contract at a time when there is then due any payment by the seller, or his assignee, on an obligation secured by an encumbrance on the property subject to the real property sales contract, and who appropriates such payment received from the buyer to a use other than payment of the amount then due on the seller's or assignee's obligation, except to the extent the payment received from the buyer exceeds the amount due from the seller or assignee, is guilty of a public offense punishable by a fine not

exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 8.5. Section 2255 of the Corporations Code is amended to read:

2255. (a) Every director, officer or agent of any corporation, domestic or foreign, who knowingly receives or acquires possession of any property of the corporation, otherwise than in payment of a just demand, and, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of the corporation is guilty of a public offense.

(b) Every director, officer, agent or shareholder of any corporation, domestic or foreign, who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to the corporation or makes or concurs in omitting to make any material entry in any book of accounts or other record or document kept by the corporation is guilty of a public offense.

(c) Each public offense specified in this section is punishable by imprisonment in a state prison, or by imprisonment in a county jail for not exceeding one year, or a fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 9. Section 2256 of the Corporations Code is amended to read:

2256. Every officer, agent or clerk of any corporation, domestic or foreign, or any person proposing to organize such a corporation or to increase the capital stock of any such corporation, who knowingly exhibits any false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation or to investigate its affairs or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a state prison, or by imprisonment in a county jail for not exceeding one year.

SEC. 9.5. Section 22002 of the Corporations Code is amended to read:

22002. (a) Every director, officer, or agent of any joint stock association, who knowingly receives or possesses himself of any property of the association, otherwise than in payment of a just demand, and, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of the association, is guilty of a public offense.

(b) Every director, officer, agent, or member of any joint stock association who, with intent to defraud, destroys, alters, mutilates, or falsifies any of the books, papers, writings, or securities belonging to the association, or makes or concurs in making any false entries, or omits or concurs in omitting to make any material entry in any book of accounts or other record or document kept by the association, is guilty of a public offense.

(c) Each public offense specified in this section is punishable by imprisonment in a state prison, or by imprisonment in a county jail not exceeding one year, or a fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 10. Section 25540 of the Corporations Code is amended to read:

25540. Any person who willfully violates any provision of this law, or who willfully violates any rule or order under this law, shall upon conviction be fined not more than ten thousand dollars ($10,000) or imprisoned in the state prison or in a county jail for not more than one year, or be punished by both such fine and imprisonment; but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order.

SEC. 11. Section 25541 of the Corporations Code is amended to read:

25541. Any person who willfully employs, directly or indirectly, any device, scheme, or artifice to defraud in connection with the offer, purchase, or sale of any security or willfully engages, directly or indirectly, in any any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person in connection with the offer, purchase, or sale of any security shall upon conviction be fined not more than ten thousand dollars ($10,000) or imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both such fine and imprisonment.

SEC. 12. Section 27203 of the Corporations Code is amended to read:

27203. Every individual who knowingly violates any provision of this division, or any condition of any certificate issued under this division, is guilty of a public offense punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 13. Section 29102 of the Corporations Code is amended to read:

29102. The felonies specified in this chapter are punishable, for each offense, if the offender is a corporation, by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or, if the offender is not a corporation, by imprisonment in a state prison or by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or by both such imprisonment and fine.

SEC. 14. Section 29570 of the Corporations Code is amended to read:

29570. Any person who willfully violates any provision of this division, or who willfully violates any rule or order under this division, shall upon conviction be fined not more than ten thousand dollars ($10,000) or imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both such fine and imprisonment; but no person may be imprisoned for the violation of

any rule or order if he proves that he had no knowledge of the rule or order.

SEC. 15. Section 31410 of the Corporations Code is amended to read:

31410. Any person who willfully violates any provision of this law, or who willfully violates any rule or order under this law, shall upon conviction be fined not more than ten thousand dollars ($10,000) or imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both such fine and imprisonment; but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order.

SEC. 15.5. Section 31411 of the Corporations Code is amended to read:

31411. Any person who willfully employs, directly or indirectly, any device, scheme, or artifice to defraud in connection with the offer or sale of any franchise or willfully engages, directly or indirectly, in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person in connection with the offer, purchase, or sale of any franchise shall upon conviction be fined not more than ten thousand dollars ($10,000) or imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both such fine and imprisonment.

SEC. 16. Section 35301 of the Corporations Code is amended to read:

35301. Any officer or member of the board of directors, board of trustees, executive committee, or other similar governing body of a subversive organization who violates any provision of this title, or permits or acquiesces in the violation of any provision of this title by the organization is guilty of a felony punishable by fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or by imprisonment in a state prison, or by both.

SEC. 17. Section 25393 of the Education Code is amended to read:

25393. Such felonies are punishable by imprisonment in the state prison.

SEC. 18. Section 29042 of the Education Code is amended to read:

29042. Any person, firm, association, partnership or corporation willfully violating any provision of Section 29036, 29037, 29038, 29039, or 29040 is guilty of a felony and is punishable by imprisonment in the state prison or by a fine of not less than one thousand dollars ($1,000) or by both such fine and imprisonment. Any person, firm, association, partnership or corporation willfully violating any other provision of this article (commencing at Section 29001) is punishable, for a first offense, by imprisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars ($500) or both; and any second or subsequent offense shall be a felony punishable by imprisonment in the state prison, or by fine not less than one thousand dollars ($1,000) or by both such fine and imprisonment.

SEC. 19. Section 220 of the Elections Code is amended to read:

220. Every person who willfully causes, procures, or allows himself or any other person to be registered as a voter, knowing that he or that other person is not entitled to registration, is punishable by imprisonment in the state prison.

SEC. 20. Section 12012 of the Elections Code is amended to read:

12012. Every person who commits any of the offenses mentioned in this article is punishable by imprisonment in the state prison.

SEC. 21. Section 14720 of the Elections Code is amended to read:

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.

SEC. 22. Section 14722 of the Elections Code is amended to read:

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.

SEC. 23. Section 15280 of the Elections Code is amended to read:

15280. Any person who, before or during an election, tampers with any voting machine, interferes or attempts to interfere with the correct operation of a voting machine or the secrecy of voting, or willfully injures a voting machine to prevent its use, and any unauthorized person who makes or has in his possession a key to a voting machine that has been adopted and will be used in elections in this state, is guilty of a felony, punishable by imprisonment in a state prison for two, three or four years.

SEC. 24. Section 29001 of the Elections Code is amended to read:

29001. Every person who willfully violates any of the provisions of the laws of this state relating to elections is, unless a different punishment is prescribed by this code, punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the state prison, or by both.

SEC. 25. Section 29002 of the Elections Code is amended to read:

29002. Every person charged with the performance of any duty under the provisions of any law of this state relating to elections, who willfully neglects or refuses to perform it, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, is, unless a different punishment is prescribed by this code, punishable by fine not exceeding one thousand dollars ($1,000) or by imprisonment in the state prison, or by both.

SEC. 26. Section 29100 of the Elections Code is amended to read:

29100. Every person is punishable by imprisonment in the state prison for two, three or four years who:

(a) Forges or counterfeits returns of an election purported to

have been held at a precinct where no election was in fact held.

(b) Willfully substitutes forged or counterfeit returns of an election in the place of true returns for a precinct where an election was actually held.

SEC. 27. Section 29101 of the Elections Code is amended to read:

29101. Every person who willfully adds to or subtracts from the votes actually cast at an election, in any official or unofficial returns, or who alters the returns, is punishable by imprisonment in the state prison.

SEC. 28. Section 29102 of the Elections Code is amended to read:

29102. Every person who aids or abets in the commission of any of the offenses mentioned in Section 14431, 29100, 29101, or 29103 is punishable by imprisonment in the county jail for the period of six months or in the state prison.

SEC. 29. Section 29103 of the Elections Code is amended to read:

29103. Every person is punishable by imprisonment in the state prison for two, three or four 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. 30. Section 29160 of the Elections Code is amended to read:

29160. Every person is punishable by imprisonment in the state prison for two, three or four years who:

(a) Gives or offers a bribe to any officer or member of any legislative caucus, political convention, committee, or political gathering of any kind, held for the purpose of nominating candidates for offices of honor, trust or profit in this state, with intent to influence the person to whom the bribe is given or offered to be more favorable to one candidate than another.

(b) Being a member of any of the bodies mentioned in this section receives or offers to receive any such bribe.

SEC. 31. Section 29214 of the Elections Code is amended to read:

29214. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment, who, circulating, as principal or agent, or having charge or control of the circulation of, or obtaining signatures to, any

initiative, referendum or recall petition, misrepresents or makes any false statement concerning the contents, purport or effect of the petition to any person who signs, or who desires to sign, or who is requested to sign, or who makes inquiries with reference to it, or to whom it is presented for his signature.

SEC. 32. Section 29215 of the Elections Code is amended to read:

29215. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment, who willfully or knowingly circulates, publishes or exhibits any false statement or misrepresentation concerning the contents, purport or effect of any initiative, referendum, or recall petition for the purpose of obtaining any signature to, or persuading any person to sign, that petition.

SEC. 33. Section 29216 of the Elections Code is amended to read:

29216. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment, who files in the office of the clerk or other officer designated by law to receive such filing, any initiative, referendum, or recall petition to which is attached, appended or subscribed any signature which the person filing the petition knows to be false or fraudulent or not the genuine signature of the person whose name it purports to be.

SEC. 34. Section 29217 of the Elections Code is amended to read:

29217. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment, who circulates or causes to be circulated any initiative, referendum, or recall petition, knowing it to contain false, forged, or fictitious names.

SEC. 35. Section 29218 of the Elections Code is amended to read:

29218. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment, who makes any false affidavit concerning any initiative, referendum, or recall petition or the signatures appended thereto.

SEC. 36. Section 29219 of the Elections Code is amended to read:

29219. Every public official or employee is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment, who knowingly makes any false return, certification or affidavit concerning any initiative, referendum, or recall petition or the signatures appended thereto.

SEC. 37. Section 29220 of the Elections Code is amended to read:

29220. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and

imprisonment, who knowingly signs his own name more than once to any initiative, referendum, or recall petition, or signs his name to any such petition knowing himself at the time of signing not to be qualified to sign it.

SEC. 38. Section 29221 of the Elections Code is amended to read:

29221. Every person who subscribes to any initiative, referendum or recall petition or to any nominating petition a fictitious name, or who subscribes thereto the name of another, or who causes another to subscribe such a name to such a petition, is guilty of a felony and is punishable by imprisonment in the state prison for two, three or four years.

SEC. 39. Section 29222 of the Elections Code is amended to read:

29222. Every person who seeks, solicits, bargains for, or obtains any money, thing of value, or advantage of or from any person, firm, or corporation for the purpose or represented purpose of fraudulently inducing, persuading, or seeking the proponent or proponents of any initiative or referendum measure or recall petition to (a) abandon such measure or petition; (b) fail, neglect, or refuse to file in the office of the clerk or other officer designated by law, within the time required by law, such initiative or referendum measure or recall petition after securing the number of signatures required to qualify such measure or petition; (c) stop the circulation of such initiative or referendum measure or recall petition; or (d) perform any act that will prevent or aid in preventing the initiative or referendum measure or recall petition from qualifying as an initiative or referendum measure, or the recall petition from resulting in a recall election, is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 40. Section 29223 of the Elections Code is amended to read:

29223. Any proponent of an initiative or referendum measure or recall petition who seeks, solicits, bargains for, or obtains any money or thing of value of or from any person, firm, or corporation for the purpose of abandoning the same or stopping the circulation of petitions concerning the same, or failing or neglecting or refusing to file such measure or petition in the office of the clerk or other officer designated by law within the time required by law after obtaining the number of signatures required under the law to qualify such measure or petition, or performing any act that will prevent or aid in preventing the initiative, referendum or recall proposed from qualifying as an initiative or referendum measure, or resulting in a recall election, is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 41. Section 29224 of the Elections Code is amended to read:

29224. Any person who seeks, solicits, bargains for, or obtains any money, thing of value or advantage of or from any person, firm, or

corporation on the threat or representation or claim or demand that unless such money, thing of value, or advantage is obtained, that an initiative or referendum measure will be proposed and circulated or proposed or circulated affecting either directly or indirectly the business, property or interests of such person, firm, or corporation is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 42. Section 29225 of the Elections Code is amended to read:

29225. Any proponent of a referendum measure shall, within the time required by law for the filing of such measure, file in the office of the clerk or other officer designated by law all petitions and signatures obtained in connection with such measure accompanied by an affidavit that the signatures so filed constitute and are all of the signatures secured or obtained in connection with such measure or petition.

A violation of this section is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 43. Section 29226 of the Elections Code is amended to read:

29226. Any person working for the proponent or proponents of an initiative or referendum measure or recall petition who solicits signatures to qualify such measure or petition and accepts any payment therefor and who fails to surrender such measure or petition to the proponents thereof for filing is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 44. Section 29227 of the Elections Code is amended to read:

29227. Every person who is entrusted with money or things of value, for the purpose of promoting or defeating any initiative, referendum, or recall petition filed in the office of the Secretary of State or measure shall be considered a trustee of such money or things of value. If he wrongfully appropriates such money or things of value to any use or purpose not in the due and lawful execution of his trust, he shall be punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment. The following expenses shall be considered to be within the due and lawful execution of the trust:

(a) Securing signatures to initiative, referendum, or recall petitions.

(b) Circulating initiative, referendum, or recall petitions.

(c) Holding and conducting public meetings.

(d) Printing and circulating prior to an election:

(1) Specimen ballots.

(2) Handbills.

(3) Cards.

(4) Other papers.
(e) Advertising.
(f) Postage.
(g) Expressage.
(h) Telegraphing.
(i) Telephoning.
(j) All salaries and expenses of:
(1) Campaign managers.
(2) Lecturers.
(3) Solicitors.
(4) Agents.
(5) All persons employed in transacting business at headquarters or branch offices.
(k) Maintaining headquarters and branch offices.
(*l*) Renting of rooms for the transaction of the business of an association.

Expenses for food, clothing, shelter and other personal needs of the trustee shall not be considered to be within the due and lawful execution of his trust.

SEC. 45. Section 29400 of the Elections Code is amended to read:

29400. Every person is guilty of a felony, and on conviction shall be punished by imprisonment in the state prison for two, three or four years, who at any election:

(a) Without first having been appointed and qualified, acts as an election officer.

(b) Not being an election officer, performs or discharges any of the duties of an election officer in regard to the handling, counting, or canvassing of any ballots.

SEC. 46. Section 29430 of the Elections Code is amended to read:

29430. Every person is punishable by imprisonment in the state prison who:

(a) Not being entitled to vote at an election, fraudulently attempts to vote at that election.

(b) Being entitled to vote, attempts to vote more than once at the same election.

(c) Personates or attempts to personate a voter.

SEC. 47. Section 29431 of the Elections Code is amended to read:

29431. Every person is punishable by imprisonment in the state prison who:

(a) Procures, assists, counsels, or advises another to give or offer his vote at any election, knowing that the person is not qualified to vote.

(b) Aids or abets in the commission of any of the offenses mentioned in Section 29430.

SEC. 48. Section 3531 of the Financial Code is amended to read:

3531. Every officer, director, clerk, employee, or agent of any corporation who embezzles, abstracts, or willfully misapplies any of the moneys, funds, credits, securities, evidence of indebtedness or assets of any character of such corporation, or who, without authority

from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, debenture, draft, bill of exchange, mortgage, judgment, or decree, or who makes any false entry in any book, report, or statement of such corporation with intent, in either case, to injure or defraud such corporation or any other company, body politic or corporate, or any individual person, or to deceive any officer of such corporation, the superintendent, or any agent or examiner appointed to examine the affairs of any such corporation; and every receiver of any corporation and every clerk or employee of such receiver who shall embezzle, abstract, or willfully misapply or wrongfully convert to his own use any moneys, funds, credits, or assets of any character which may come into his possession or under his control in the execution of his trust or the performance of the duties of his employment; and every such receiver or clerk or employee of such receiver who shall, with intent to injure or defraud any person, body politic or corporate, or to deceive or mislead the superintendent or any agent or examiner appointed to examine the affairs of such receiver, shall make any false entry in any book, report, or record of any matter connected with the duties of such receiver; and every person who with like intent aids or abets any officer, director, clerk, employee, or agent of any corporation, or receiver or clerk or employee of such receiver as aforesaid in any violation of this article shall upon conviction thereof be imprisoned for two, three, or four years, and may also be fined not more than five thousand dollars ($5,000), in the discretion of the court.

SEC. 48.1. Section 3532 of the Financial Code is amended to read:

3532. Whoever being connected in any capacity with any corporation represents in any way that the State of California is liable for the payment of any bond or other obligation, or the interest thereon, issued or incurred by any corporation, or that the State of California incurs any liability in respect of any act or omission of the corporation, shall be punished by a fine of not more than ten thousand dollars ($10,000) and by imprisonment in the state prison.

SEC. 48.2. Section 5018 of the Financial Code is amended to read:

5018. Every person who willfully violates or willfully fails to comply with any of the provisions of this division is guilty of a public offense. Except where such offense is declared to be a felony or a misdemeanor or a different punishment is prescribed, such person shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 48.3. Section 5019 of the Financial Code is amended to read:

5019. Any person who willfully violates any lawful condition of a permit authorizing an association to issue its stock, or who with knowledge of any lawful order of the commissioner addressed to an

association directing a discontinuance of any unsafe or injurious practice of such association, willfully violates such order, is guilty of a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment.

SEC. 48.4. Section 5603 of the Financial Code is amended to read:

5603. Any person violating Section 5602 is guilty of a public offense and shall be punished by imprisonment in the state prison, or in the county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 48.5. Section 5606 of the Financial Code is amended to read:

5606. No association shall make or purchase any loan or investment not authorized or permitted by this division and any officer or director who on behalf of any such association knowingly makes or purchases any loan or investment not authorized by this division or who knowingly consents thereto is personally liable to such association for the full amount of any such loan or investment. Any officer or director violating this section is guilty of a public offense and shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 49. Section 5809 of the Financial Code is amended to read:

5809. Any person who, as principal, agent, salesman, solicitor, or in any other capacity, solicits or conducts in this state the business of selling, disposing of, taking, or soliciting subscriptions for the sale of any of the shares, stock, or investment certificates of any foreign association which has not complied with all the requirements of this chapter, is guilty of a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 50. Section 17701 of the Food and Agricultural Code is amended to read:

17701. A violation of Section 17551 shall be punished by imprisonment in the state prison.

SEC. 51. Section 18932 of the Food and Agricultural Code is amended to read:

18932. Any person who is found guilty of violating any of the provisions of this chapter or the regulations promulgated under this chapter is subject to imprisonment in the county jail for not more than one year or a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine, but if the violation is committed after a conviction of such person under this section has become final, or the violation is committed with intent to defraud or

mislead, the person shall be subject to imprisonment in the state prison, or a fine of not more than ten thousand dollars ($10,000), or both such imprisonment and fine.

SEC. 52. Section 18933 of the Food and Agricultural Code is amended to read:

18933. Any person who, as principal or agent, employer or employee, adulterates any meat or meat food product or poultry product intended for sale as human food with the product of an animal which has died otherwise than by slaughter or the product of an animal which has not been slaughtered under inspection in accordance with this chapter, shall be guilty of a felony punishable by a fine of not less than ten thousand dollars ($10,000), or by imprisonment in the state prison, or both such imprisonment and fine.

SEC. 53. Section 19440 of the Food and Agricultural Code is amended to read:

19440. Any person who is found guilty of violating any of the provisions of this chapter or the rules and regulations promulgated under this chapter is subject to imprisonment in the county jail for not more than one year or a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, or the violation is committed with intent to defraud or mislead, the person shall be subject to imprisonment in the state prison, or a fine of not more than ten thousand dollars ($10,000), or both such imprisonment and fine.

SEC. 54. Section 19441 of the Food and Agricultural Code is amended to read:

19441. Any person who, as principal or agent, employer or employee, adulterates any other meat or meat food product intended for human food with horsemeat or the product of an animal which has died otherwise than by slaughter or the product of an animal slaughtered for pet food in accordance with this chapter, or represents horsemeat or pet food to be any other meat or meat food product, shall be guilty of a felony punishable by a fine of not less than ten thousand dollars ($10,000), or by imprisonment in the state prison, or both.

SEC. 54.5. Section 1097 of the Government Code is amended to read:

1097. Every officer or person prohibited by the laws of this state from making or being interested in contracts, or from becoming a vendor or purchaser at sales, or from purchasing scrip, or other evidences of indebtedness, including any member of the governing board of a school district, who willfully violates any of the provisions of such laws, is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the state prison, and is forever disqualified from holding any office in this state.

SEC. 55. Section 1369 of the Government Code is amended to read:

1369. Every person having taken and subscribed to the oath or affirmation required by this chapter, who while holding office, advocates or becomes a member of any party or organization, political or otherwise, that advocates the overthrow of the government of the United States by force or violence or other unlawful means, is guilty of a felony, and is punishable by imprisonment in the state prison.

SEC. 55.5. Section 1855 of the Government Code is amended to read:

1855. Every officer whose office is abolished by law, or who, after the expiration of the time for which he may be appointed or elected, or after he has resigned or been legally removed from office, willfully and unlawfully

(a) Mutilates, destroys, or takes away the records, papers, documents, or other writings appertaining or belonging to his office, or

(b) Withholds or detains from his successor, or other person entitled thereto, the records, papers, documents, or other writings appertaining or belonging to his office, or any money or property in his custody as such officer,

is punishable by imprisonment in the state prison.

SEC. 56. Section 3109 of the Government Code is amended to read:

3109. Every person having taken and subscribed to the oath or affirmation required by this chapter, who, while in the employ of, or service with, the state or any county, city, city and county, state agency, public district, or disaster council or emergency organization advocates or becomes a member of any party or organization, political or otherwise, that advocates the overthrow of the government of the United States by force or violence or other unlawful means, is guilty of a felony, and is punishable by imprisonment in the state prison.

SEC. 57. Section 6200 of the Government Code is amended to read:

6200. Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his hands for any purpose, who is guilty of stealing, willfully destroying, mutilating, defacing, altering or falsifying, removing or secreting the whole or any part of such record, map, book, paper, or proceeding, or who permits any other person to do so, is punishable by imprisonment in the state prison for two, three, or four years.

SEC. 58. Section 6201 of the Government Code is amended to read:

6201. Every person not an officer referred to in Section 6200, who is guilty of any of the acts specified in that section, is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding one hundred dollars ($100), or by both such fine and imprisonment.

SEC. 58.5. Section 9056 of the Government Code is amended to read:

9056. Any person who shall secure through his influence, knowingly exerted for that purpose, the introduction of any bill, resolution or amendment into the State Legislature and shall thereafter solicit or accept from any person other than a person upon whose request he secured such introduction, any pay or other valuable consideration for preventing or attempting to prevent, the enactment or adoption of such measure, while it retains its original purpose, shall be guilty of a crime and upon conviction thereof shall be punishable by a fine of not exceeding five thousand dollars ($5,000) or by imprisonment in the county jail for not more than one year or in the state prison, or by both such fine and imprisonment.

SEC. 59. Section 14423 of the Government Code is amended to read:

14423. Such felonies are punishable by imprisonment in the state prison.

SEC. 59.5. Section 27443 of the Government Code is amended to read:

27443. Every person holding the office of public administrator, public guardian, or public conservator and any deputy or agent of such officer is guilty of a crime who:

(a) Purchases, directly or indirectly, the property of any estate or a claim against any estate administered by any public administrator, public guardian, or public conservator in his official capacity, or

(b) Acts upon any transaction or expenditure in connection with the administration of an estate by the public administrator, public guardian, or public conservator in his official capacity, when he has a financial interest in such transaction or expenditure, or, having knowledge of such interest, is associated in business with anyone who has such an interest.

Subdivisions (a) and (b) shall not be applicable to any act specifically authorized by court order.

Any violation of this section is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment, or by imprisonment in the state prison. Upon conviction of this section a person forfeits his office. This section is not intended to preclude prosecution under any other provisions of the criminal law which are otherwise applicable.

SEC. 60. Section 304 of the Harbors and Navigation Code is amended to read:

304. Every person in command or charge of any vessel, who, within this state, willfully wrecks, sinks, or otherwise injures or destroys it or any of its cargo, or willfully permits the same to be wrecked, sunk, or otherwise injured or destroyed, with intent to prejudice or defraud any person, is punishable by imprisonment in the state prison for two, three, or four years.

SEC. 61. Section 305 of the Harbors and Navigation Code is

amended to read:

305. Every person, other than those embraced within the last section who is guilty of any act specified in that section, is punishable by imprisonment in the state prison.

SEC. 62. Section 306 of the Harbors and Navigation Code is amended to read:

306. Every person who prepares, makes, or subscribes any false or fraudulent manifest, invoice, bill of lading, ship's register, or protest, with intent to defraud another, is punishable by imprisonment in the state prison.

SEC. 63. Section 1715 of the Health and Safety Code is amended to read:

1715. Except as provided in Section 1709, a violation of this chapter is punishable by imprisonment in the county jail for a period not exceeding one year, or in the state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by both such imprisonment and fine.

SEC. 64. Section 7051 of the Health and Safety Code is amended to read:

7051. Every person who removes any part of any human remains from any place where it has been interred, or from any place where it is deposited while awaiting interment, with intent to sell it or to dissect it, without authority of law, or from malice or wantonness, is punishable by imprisonment in the state prison.

SEC. 65. Section 11350 of the Health and Safety Code is amended to read:

11350. 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.

SEC. 66. Section 11351 of the Health and Safety Code is amended to read:

11351. Except as otherwise provided in this division, every person who possesses for sale (1) any controlled substance specified in subdivision (b) 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 two, three, or four years.

SEC. 67. Section 11352 of the Health and Safety Code is amended to read:

11352. Except as otherwise provided in this division, every person who transports, imports into this state, sells, furnishes,

administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport (1) any controlled substance specified in subdivision (b) 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 three, four, or five years.

SEC. 68. Section 11353 of the Health and Safety Code is amended to read:

11353. Every person 18 years of age or over who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall knowingly violate any provision of this chapter or Section 11550 with respect to (1) a controlled substance which is specified in subdivision (b) 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, who hires, employs, or uses a minor to knowingly and unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such controlled substance, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 69. Section 11354 of the Health and Safety Code is amended to read:

11354. (a) Every person under the age of 18 years who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall knowingly violate any provision of this chapter or Section 11550, who hires, employs, or uses a minor to knowingly and unlawfully transport, carry, sell, give away, prepare for sale, or peddle (1) any controlled substance specified in subdivision (b) 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, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison.

(b) This section is not intended to affect the jurisdiction of the juvenile court.

SEC. 70. Section 11355 of the Health and Safety Code is amended to read:

11355. Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give (1)

any controlled substance specified in subdivision (b) 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 or, (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug to any person, or offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 71. Section 11357 of the Health and Safety Code is amended to read:

11357. (a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment, or shall be punished by imprisonment in the state prison.

(b) Except as authorized by law, every person who possesses not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). Notwithstanding other provisions of law, if such person has been previously convicted three or more times of an offense described in this subdivision during the two-year period immediately preceding the date of commission of the violation to be charged, the previous convictions shall also be charged in the accusatory pleading and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, the provisions of Sections 1000.1 and 1000.2 of the Penal Code shall be applicable to him, and the court shall divert and refer him for education, treatment, or rehabilitation, without a court hearing or determination or the concurrence of the district attorney, to an appropriate community program which will accept him. If the person is so diverted and referred he shall not be subject to the fine specified in this subdivision. If no community program will accept him, the person shall be subject to the fine specified in this subdivision. In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) Except as authorized by law, every person who possesses more than one avoirdupois ounce of marijuana, other than concentrated cannabis, shall be punished by imprisonment in the county jail for a

period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 72. Section 11358 of the Health and Safety Code is amended to read:

11358. Every person who plants, cultivates, harvests, dries, or processes any marijuana or any part thereof, except as otherwise provided by law, shall be punished by imprisonment in the state prison.

SEC. 73. Section 11359 of the Health and Safety Code is amended to read:

11359. Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished by imprisonment in the state prison.

SEC. 74. Section 11360 of the Health and Safety Code is amended to read:

11360. (a) Except as otherwise provided by this section or as authorized by law, 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 any marijuana shall be punished by imprisonment in the state prison for a period of two, three or four years.

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

SEC. 75. Section 11361 of the Health and Safety Code is amended to read:

11361. Every person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any marijuana, who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give any marijuana to a minor, or who induces a minor to use marijuana in violation of law shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 76. Section 11363 of the Health and Safety Code is amended to read:

11363. Every person who plants, cultivates, harvests, dries, or processes any plant of the genus Lophophora, also known as peyote, or any part thereof shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

SEC. 77. Section 11366 of the Health and Safety Code is amended to read:

11366. Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b) 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, or (2) which is a narcotic drug classified in Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

SEC. 78. Section 11368 of the Health and Safety Code is amended to read:

11368. Every person who forges or alters a prescription or who issues or utters an altered prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or altered prescription, or who has in possession any narcotic drug secured by such forged, fictitious, or altered prescription, shall for the first offense be punished by imprisonment in the county jail for not less than six months nor more than one year, or in the state prison.

SEC. 80. Section 11371 of the Health and Safety Code is amended to read:

11371. Any person who shall violate any of the provisions of Section 11152, 11153, 11154, 11155, 11156, 11173, or 11174 with respect to (1) 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, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

SEC. 80.5. Section 11371 of the Health and Safety Code is amended to read:

11371. Any person who shall violate any of the provisions of Section 11152, 11153, 11154, 11155, or 11156 with respect to (1) 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, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars ($20,000), or by both such fine and imprisonment.

SEC. 81. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, other than any substance specified in paragraph (6) of subdivision (b) of Section 11056, and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

(b) Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance specified in paragraph (6) of subdivision (b) of Section 11056, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by a fine of not exceeding five hundred dollars ($500), or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

SEC. 82. Section 11378 of the Health and Safety Code is amended to read:

11378. Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) of Section 11055, shall be punished by imprisonment in the state prison.

SEC. 83. Section 11379 of the Health and Safety Code is amended to read:

11379. Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, manufactures, compounds, furnishes, administers, or gives away, or offers to transport, import into this state, sell, manufacture, compound, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) of Section 11055, unless upon the 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 two, three, or four years.

SEC. 84. Section 11380 of the Health and Safety Code is amended to read:

11380. (a) Every person 18 years of age or over who violates any provision of this chapter involving controlled substances which are (1) classified in Schedule III, IV, or V and which are not narcotic drugs or (2) which are specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivison, or specified in subdivision (d) of Section 11055, by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving such controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish such controlled substances to a minor shall be punished by imprisonment in the state prison for a period of three, four or five years.

(b) Nothing contained in this section shall apply to a registered pharmacist furnishing controlled substances pursuant to a prescription.

SEC. 85. Section 11382 of the Health and Safety Code is amended to read:

11382. Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) of Section 11055, to any person, or offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, or arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 86. Section 11383 of the Health and Safety Code is amended to read:

11383. Any person who possesses both methylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture methamphetamine is guilty of a felony.

The provisions of this section shall not apply to drug manufacturers licensed by this state or persons authorized by regulation of the Board of Pharmacy to possess both methylamine and phenyl-2-propanone (phenylacetone).

SEC. 87. Section 556 of the Insurance Code is amended to read:

556. It is unlawful to:

(a) Present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(b) Prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in

support of any such claim.

Every person who violates any provision of this section is punishable by imprisonment in the state prison, or by fine not exceeding one thousand dollars ($1,000), or by both.

SEC. 88. Section 833 of the Insurance Code is amended to read:

833. Every person who commits any of the acts specified in this section is guilty of a public offense and punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

(a) Knowingly authorizing, directing, aiding, causing, or assisting in causing the issuance, execution, or sale of, any security, in nonconformity with a permit of the commissioner then in effect and authorizing such issuance, or contrary to the provisions of this article.

(b) Knowingly making any false statement or representation in any application to the commissioner, or in any proceeding before him, or in any examination, audit, or investigation made by him, or by his authority.

(c) With knowledge of the falsity, causing to be filed in the office of the commissioner any false statement or representation concerning an insurer, the property which the insurer then holds or proposes to acquire, the insurer's officers, the insurer's financial condition or other affairs, or the insurer's proposed plan of business.

(d) With knowledge of the falsity of any such statement or representation, causing any security to be issued, executed, or sold without first informing the commissioner of the falsity of such statement in writing.

(e) Directly or indirectly, knowingly causing or assisting in causing any part of the proceeds from the sale of any security to be applied to any purpose contrary to the provisions of the permit authorizing the issuance of such security, or to any purpose in excess of the amount specified in such permit for such purpose.

(f) Selling a security with knowledge that it has been issued or executed in violation of any of the provisions of this article.

(g) Causing a writing concerning a security to be issued, circulated, or published while having knowledge that such matter contains any statement that is false, misleading, or otherwise likely to deceive a reader thereof.

(h) In any respect, willfully violating or failing to comply with any of the provisions of this article.

(i) In any other respect, willfully violating or neglecting to comply with any part of an order or permit of the commissioner under the provisions of this article.

(j) Conspiring with one or more other persons to violate any permit or order issued by the commissioner, or any of the provisions of this article.

SEC. 89. Section 1043 of the Insurance Code is amended to read:

1043. In any proceeding under this article, the commissioner, as conservator or as liquidator, may, subject to the approval of said

court, and subject to such liens as may be necessary mutualize or reinsure the business of such person, or enter into rehabilitation agreements. No commissioner who acts as conservator of such person or who mutualizes, merges or reinsures the business of such person or who enters into rehabilitation agreements affecting such person, and no deputy commissioner who has participated in the administration of the affairs of such person for the commissioner as conservator shall for a period of two years from and after the effective date of such mutualization, reinsurance or rehabilitation become an officer or director of, or serve as an officer or director of, or serve in any position of gain or profit in, any company formed in whole or in part of the assets or funds, or any part of the assets or funds of such mutualized, merged, reinsured or rehabilitated person.

Every person violating this provision is guilty of a public offense and shall be punished by imprisonment in the state prison, or in the county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

Such rehabilitation or reinsurance agreements shall provide that, subsequent to the date thereof and for such period of time as the commissioner may determine, no investment or reinvestment of the assets of the person rehabilitated or reinsured shall be made without first obtaining the written approval of the commissioner.

Every party to such agreement, and every director, officer, agent and employee of such person, and every other person who knowingly in violation thereof directs or aids or assists in causing to be made an investment or reinvestment of any of said assets without first having obtained the written approval of the commissioner, or who makes such investment or reinvestment in nonconformity with the written approval of the commissioner then in effect authorizing such investment or reinvestment, is guilty of a public offense and shall be punished by imprisonment in the state prison, or in the county jail or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 90. Section 1215.10 of the Insurance Code is amended to read:

1215.10. Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this article, the commissioner may cause criminal proceedings to be instituted in the county in which the principal office of the insurer is located, or if such insurer has no such office in the state then by the Attorney General against such insurer or the responsible director, officer, employee, or agent thereof. Any insurer which willfully violates this article shall be fined not more than ten thousand dollars ($10,000). Any individual who willfully violates this article shall be fined not more than three thousand dollars ($3,000) or, if such willful violation involves the deliberate perpetration of a fraud upon the commissioner, imprisoned in the state prison, or both.

SEC. 91. Section 1764.7 of the Insurance Code is amended to read:

1764.7. Any person who violates Section 1764.2, 1764.3 or 1764.4 is guilty of a public offense and punishable by imprisonment in the state prison, or in a county jail for not exceeding one year or by fine not exceeding ten thousand dollars ($10,000), or by both.

SEC. 92. Section 1814 of the Insurance Code is amended to read:

1814. The violation of any foregoing provision of this chapter, or of any rule of the commissioner made pursuant thereto, is a public offense, punishable by fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 93. Section 11161 of the Insurance Code is amended to read:

11161. Any person violating Section 11160 is guilty of a felony and punishable by a fine not exceeding five thousand dollars ($5,000) or imprisonment in the state prison, or both.

SEC. 94. Section 12660 of the Insurance Code is amended to read:

12660. Any person who in this state engages in the business of guaranteeing or insuring land values, or who solicits or negotiates in this state for the purpose of, or in any manner aids, any person within or without this state to engage in such business, is guilty of a public offense and punishable by imprisonment in the state prison, or in the county jail for not exceeding one year, or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 95. Section 7771 of the Labor Code is amended to read:

7771. Every person having charge of any steam boiler, steam engine, or other apparatus for generating or employing steam, used in any manufactory, railroad, vessel, or other mechanical works, who willfully, or from ignorance or neglect, creates, or allows to be created, such an undue quantity of steam as to burst or break the boiler, engine, or apparatus, or to cause any other accident whereby the death of a human being is caused, is punishable by imprisonment in the state prison for two, three, or four years.

SEC. 97. Section 1673 of the Military and Veterans Code is amended to read:

1673. Any person who attempts to commit any of the crimes defined by this chapter is punishable as provided in Section 664 of the Penal Code, except that attempts to commit crimes defined by Sections 1670 and 1671 are punishable by imprisonment in the state prison for two, three or four years or by a fine of not more than five thousand dollars ($5,000), or both. In addition to the acts which constitute an attempt to commit a crime under the law of this state, the solicitation or incitement of another to commit any of the crimes defined by this chapter not followed by the commission of the crime, the collection or assemblage of any materials with the intent that they are to be used then or at a later time in the commission of such crime, or the entry, with or without permission, of a building, enclosure, or other premises of another with the intent to commit

any such crime constitutes an attempt to commit such crime.

SEC. 98. Section 18 of the Penal Code is amended to read:

18. Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a felony, or to be punishable by imprisonment in a state prison, is punishable by imprisonment in any of the state prisons for 16 months, or two or three years; provided, however, every offense which is prescribed by any law of the state to be a felony punishable by imprisonment in any of the state prisons or by a fine, but without an alternate sentence to the county jail, may be punishable by imprisonment in the county jail not exceeding one year or by a fine, or by both.

SEC. 99. Section 18a of the Penal Code is repealed.

SEC. 100. Section 18b of the Penal Code is repealed.

SEC. 101. Section 33 of the Penal Code is amended to read:

33. Except in cases where a different punishment is prescribed, an accessory is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 102. Section 38 of the Penal Code is amended to read:

38. Misprision of treason is the knowledge and concealment of treason, without otherwise assenting to or participating in the crime. It is punishable by imprisonment in the state prison.

SEC. 103. Section 67 of the Penal Code is amended to read:

67. Every person who gives or offers any bribe to any executive officer in this state, with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer, is punishable by imprisonment in the state prison for two, three or four years, and is disqualified from holding any office in this state.

SEC. 104. Section 68 of the Penal Code is amended to read:

68. Every executive or ministerial officer, employee or appointee of the State of California, county or city therein or political subdivision thereof, who asks, receives, or agrees to receive, any bribe, upon any agreement or understanding that his vote, opinion, or action upon any matter then pending, or which may be brought before him in his official capacity, shall be influenced thereby, is punishable by imprisonment in the state prison for two, three or four years; and, in addition thereto, forfeits his office, and is forever disqualified from holding any office in this state.

SEC. 105. Section 69 of the Penal Code is amended to read:

69. Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, or who knowingly resists, by the use of force or violence, such officer, in the performance of his duty, is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 106. Section 71 of the Penal Code is amended to read:

71. Every person who, with intent to cause, attempts to cause, or

causes, any officer or employee of any public or private educational institution or any public officer or employee to do, or refrain from doing, any act in the performance of his duties, by means of a threat, directly communicated to such person, to inflict an unlawful injury upon any person or property, and it reasonably appears to the recipient of the threat that such threat could be carried out, is guilty of a public offense punishable as follows:

(1) Upon a first conviction, such person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

(2) If such person has been previously convicted of a violation of this section, such previous conviction shall be charged in the accusatory pleading, and if such previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, he is punishable by imprisonment in the state prison.

As used in this section, "directly communicated" includes, but is not limited to, a communication to the recipient of the threat by telephone, telegraph, or letter.

SEC. 107. Section 72 of the Penal Code is amended to read:

72. Every person who, with intent to defraud, presents for allowance or for payment to any state board or officer, or to any county, city, or district board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is punishable either by imprisonment in the county jail for a period of not more than one year, by a fine of not exceeding one thousand dollars ($1,000), or by both such imprisonment and fine, or by imprisonment in the state prison, by a fine of not exceeding ten thousand dollars ($10,000), or by both such imprisonment and fine.

As used in this section "officer" includes a "carrier," as defined in Section 14057 or 14555 of the Welfare and Institutions Code, authorized to act as an agent for a state board or officer or a county, city, or district board or officer, as the case may be.

SEC. 108. Section 85 of the Penal Code is amended to read:

85. Every person who gives or offers to give a bribe to any Member of the Legislature, or to another person for him, or attempts by menace, deceit, suppression of truth, or any corrupt means, to influence a member in giving or withholding his vote, or in not attending the house or any committee of which he is a member, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 109. Section 86 of the Penal Code is amended to read:

86. Every member of either of the houses composing the Legislature of this state who asks, receives or agrees to receive, any bribe, upon any understanding that his official vote, opinion, judgment or action shall be influenced thereby, or shall give, in any particular manner, or upon any particular side of any question or

matter upon which he may be required to act in his official capacity, or gives, or offers or promises to give, any official vote in consideration that another Member of the Legislature shall give any such vote either upon the same or another question, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 110. Section 92 of the Penal Code is amended to read:

92. Every person who gives or offers to give a bribe to any judicial officer, juror, referee, arbitrator, or umpire, or to any person who may be authorized by law to hear or determine any question or controversy, with intent to influence his vote, opinion, or decision upon any matter or question which is or may be brought before him for decision, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 111. Section 93 of the Penal Code is amended to read:

93. Every judicial officer, juror, referee, arbitrator, or umpire, and every person authorized by law to hear or determine any question or controversy, who asks, receives, or agrees to receive, any bribe, upon any agreement or understanding that his vote, opinion, or decision upon any matters or question which is or may be brought before him for decision, shall be influenced thereby, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 112. Section 95 of the Penal Code is amended to read:

95. Every person who corruptly attempts to influence a juror, or any person summoned or drawn as a juror, or chosen as an arbitrator, or umpire, or appointed a referee, in respect to his verdict in, or decision of any cause, or proceeding, pending, or about to be brought before him, either:

One—By means of any communication, oral or written, had with him except in the regular course of proceedings;

Two—By means of any book, paper, or instrument exhibited, otherwise than in the regular course of proceedings;

Three—By means of any threat, intimidation, persuasion, or entreaty; or,

Four—By means of any promise, or assurance of any pecuniary or other advantage;

—is punishable by fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison.

SEC. 113. Section 96 of the Penal Code is amended to read:

96. Every juror, or person drawn or summoned as a juror, or chosen arbitrator or umpire, or appointed referee, who either:

One—Makes any promise or agreement to give a verdict or decision for or against any party; or,

Two—Willfully and corruptly permits any communication to be made to him, or receives any book, paper, instrument, or information relating to any cause or matter pending before him, except according to the regular course of proceedings,

is punishable by fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison.

SEC. 114. Section 99 of the Penal Code is amended to read:

99. The Superintendent of State Printing shall not, during his continuance in office, have any interest, either directly or indirectly, in any contract in any way connected with his office as Superintendent of State Printing; nor shall he, during said period, be interested, either directly or indirectly, in any state printing, binding, engraving, lithographing, or other state work of any kind connected with his said office; nor shall he, directly or indirectly, be interested in any contract for furnishing paper, or other printing stock or material, to or for use in his said office; and any violations of these provisions shall subject him, on conviction before a court of competent jurisdiction, to imprisonment in the state prison and to a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or by both such fine and imprisonment.

SEC. 115. Section 100 of the Penal Code is amended to read:

100. If the Superintendent of State Printing corruptly colludes with any person or persons furnishing paper or materials, or bidding therefor, or with any other person or persons, or has any secret understanding with him or them, by himself or through others, to defraud the state, or by which the state is defrauded or made to sustain a loss, contrary to the true intent and meaning of this chapter, he, upon conviction thereof, forfeits his office, and is subject to imprisonment in the state prison, and to a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both such fine and imprisonment.

SEC. 116. Section 107 of the Penal Code is amended to read:

107. Every prisoner charged with or convicted of a felony who is an inmate of any public training school or reformatory or county hospital who escapes or attempts to escape from such public training school or reformatory or county hospital is guilty of a felony and is punishable by imprisonment in the state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 117. Section 109 of the Penal Code is amended to read:

109. Any person who willfully assists any inmate of any public training school or reformatory to escape, or in an attempt to escape from such public training school or reformatory is punishable by imprisonment in the state prison, and fine not exceeding ten thousand dollars ($10,000).

SEC. 117.5. Section 110 of the Penal Code is amended to read:

110. Every person who carries or sends into a public training school, or reformatory, anything useful to aid a prisoner or inmate in making his escape, with intent thereby to facilitate the escape of any prisoner or inmate confined therein, is guilty of a felony.

SEC. 118. Section 126 of the Penal Code is amended to read:

126. Perjury is punishable by imprisonment in the state prison for two, three or four years.

SEC. 119. Section 136 of the Penal Code is amended to read:

136. (a) Every person who willfully and unlawfully prevents or

dissuades any person who is or may become a witness, from attending upon any trial, proceeding, or inquiry, authorized by law, is guilty of a misdemeanor.

(b) Every person who willfully and unlawfully prevents or dissuades by means of force or threats of unlawful injury to person or property, any person who is or may become a witness, from attending upon any trial, proceeding, or inquiry, authorized by law, is punishable by fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison or by both such fine and imprisonment in the county jail or in the state prison.

SEC. 120. Section 142 of the Penal Code is amended to read:

142. Any peace officer who has the authority to receive or arrest a person charged with a criminal offense and willfully refuses to receive or arrest such person shall be punished by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 121. Section 148.1 of the Penal Code is amended to read:

148.1. (a) Any person who reports to any police officer, sheriff, employee of a fire department or fire service, district attorney, newspaper, radio station, television station, deputy sheriff, deputy district attorney, member of the California Highway Patrol, employees of an airline, employees of an airport, employees of a railroad or busline, an employee of a telephone company, occupants of a building or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been placed or secreted in any public or private place knowing that such report is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

(b) Any person who maliciously informs any other person that a bomb or other explosive has been placed or secreted in any public or private place, knowing that such information is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

(c) Any person who maliciously gives, mails, sends, or causes to be sent any false or facsimile bomb to another person, or places or causes to be placed any false or facsimile bomb, with the intent that any other person thinks it is a real bomb and with knowledge that it is a false or facsimile bomb, is guilty of a crime punishable by imprisonment in the state prison, or by imprisonment in the county jail not to exceed one year.

SEC. 121.5. Section 148.1 of the Penal Code is amended to read:

148.1. (a) Any person who reports to any police officer, sheriff, employee of a fire department or fire service, district attorney, newspaper, radio station, television station, deputy sheriff, deputy district attorney, member of the California Highway Patrol, employees of the Department of Justice, employees of an airline,

employees of an airport, employees of a railroad or busline, an employee of a telephone company, occupants of a building or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been or will be placed or secreted in any public or private place knowing that such report is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

(b) Any person who maliciously informs any other person that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that such information is false, is guilty of a crime punishable by imprisonment in the state prison not to exceed three years, or imprisonment in the county jail not to exceed one year.

(c) Any person who maliciously gives, mails, sends, or causes to be sent any false or facsimile bomb to another person, or places or causes to be placed any false or facsimile bomb, with the intent that any other person thinks it is a real bomb and with knowledge that it is a false or facsimile bomb, is guilty of a crime punishable by imprisonment in the state prison, or by imprisonment in the county jail not to exceed one year.

SEC. 122. Section 148.3 of the Penal Code is amended to read:

148.3. (a) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, knowing that such report is false, is guilty of a misdemeanor and, upon conviction thereof, shall be punishable by imprisonment in the county jail, not exceeding one year, or by a fine, not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

(b) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, knowing that such report is false, and great bodily injury or death is sustained by any person as a result of such false report, is guilty of a felony and upon conviction thereof shall be punishable by imprisonment in the state prison, or by a fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment.

(c) "Emergency" as used in this section means any condition which results in, or which could result in, the response of a public official in an authorized emergency vehicle, or any condition which jeopardizes or could jeopardize public safety and results in, or could result in, the evacuation of any area, building, structure, vehicle or of any other place which any individual may enter.

SEC. 123. Section 148.4 of the Penal Code is amended to read:

148.4. (1) Any person who willfully and maliciously tampers with, molests, injures, or breaks any public fire alarm apparatus, wire, or signal, or willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any public fire alarm system or signal or by any other means or methods, is guilty of a

misdemeanor and upon conviction thereof shall be punishable by imprisonment in the county jail, not exceeding one year, or by a fine, not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

(2) Any person who willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any public fire alarm system or signal, or by any other means or methods, and great bodily injury or death is sustained by any person as a result thereof, is guilty of a felony and upon conviction thereof shall be punishable by imprisonment in the state prison or by a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 124. Section 149 of the Penal Code is amended to read:

149. Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 125. Section 153 of the Penal Code is amended to read:

153. Every person who, having knowledge of the actual commission of a crime, takes money or property of another, or any gratuity or reward, or any engagement, or promise thereof, upon any agreement or understanding to compound or conceal such crime, or to abstain from any prosecution thereof, or to withhold any evidence thereof, except in the cases provided for by law, in which crimes may be compromised by leave of court, is punishable as follows:

1. By imprisonment in the state prison, or in a county jail not exceeding one year, where the crime was punishable by death or imprisonment in the state prison for life;

2. By imprisonment in the state prison, or in the county jail not exceeding six months, where the crime was punishable by imprisonment in the state prison for any other term than for life;

3. By imprisonment in the county jail not exceeding six months, or by fine not exceeding five hundred dollars ($500), where the crime was a misdemeanor.

SEC. 126. Section 156 of the Penal Code is amended to read:

156. Every person who fraudulently produces an infant, falsely pretending it to have been born of any parent whose child would be entitled to inherit any real estate or to receive a share of any personal estate, with intent to intercept the inheritance of any such real estate, or the distribution of any such personal estate from any person lawfully entitled thereto, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 127. Section 157 of the Penal Code is amended to read:

157. Every person to whom an infant has been confided for nursing, education, or any other purpose, who, with intent to deceive any parent or guardian of such child, substitutes or produces to such parent or guardian another child in the place of the one so confided, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 128. Section 165 of the Penal Code is amended to read:

165. Every person who gives or offers a bribe to any member of any common council, board of supervisors, or board of trustees of any county, city and county, city, or public corporation, with intent to corruptly influence such member in his action on any matter or subject pending before, or which is afterward to be considered by, the body of which he is a member, and every member of any of the bodies mentioned in this section who receives, or offers or agrees to receive any bribe upon any understanding that his official vote, opinion, judgment, or action shall be influenced thereby, or shall be given in any particular manner or upon any particular side of any question or matter, upon which he may be required to act in his official capacity, is punishable by imprisonment in the state prison for two, three or four years, and upon conviction thereof shall, in addition to said punishment, forfeit his office, and forever be disfranchised and disqualified from holding any public office or trust.

SEC. 129. Section 171c of the Penal Code is amended to read:

171c. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer, a member of the military forces of this state or the United States engaged in the performance of his duties, or a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, who brings a loaded firearm into, or possesses a loaded firearm within, the State Capitol, any legislative office, any office of the Governor or other constitutional officer, or any hearing room in which any committee of the Senate or Assembly is conducting a hearing, or upon the grounds of the State Capitol, which is bounded by 10th, L, 15th, and N Streets in the City of Sacramento, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine, or by imprisonment in the state prison.

SEC. 130. Section 171d of the Penal Code is amended to read:

171d. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, or any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer, or a member of the military forces of this state or of the United States engaged in the performance of his duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4

of the Penal Code, or the Governor or a member of his immediate family or a person acting with his permission with respect to the Governor's Mansion or any other residence of the Governor, any other constitutional officer or a member of his immediate family or a person acting with his permission with respect to such officer's residence, or a Member of the Legislature or a member of his immediate family or a person acting with his permission with respect to such legislator's residence, shall be punished by imprisonment in the county jail for not more than one year, or by fine of not more than one thousand dollars ($1000), or by both such fine and imprisonment, or by imprisonment in the state prison, if he does any of the following:

1. Brings a loaded firearm into, or possesses a loaded firearm within, the Governor's Mansion, or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

2. Brings a loaded firearm upon, or possesses a loaded firearm upon, the grounds of the Governor's Mansion or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

SEC. 131. Section 181 of the Penal Code is amended to read:

181. Every person who holds, or attempts to hold, any person in involuntary servitude, or assumes, or attempts to assume, rights of ownership over any person, or who sells, or attempts to sell, any person to another, or receives money or anything of value, in consideration of placing any person in the custody, or under the power or control of another, or who buys, or attempts to buy, any person, or pays money, or delivers anything of value, to another, in consideration of having any person placed in his custody, or under his power or control, or who knowingly aids or assists in any manner any one thus offending, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 132. Section 182 of the Penal Code is amended to read:

182. If two or more persons conspire:

1. To commit any crime.

2. Falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime.

3. Falsely to move or maintain any suit, action or proceeding.

4. To cheat and defraud any person of any property, by any means which are in themselves criminal, or to obtain money or property by false pretenses or by false promises with fraudulent intent not to perform such promises.

5. To commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.

6. To commit any crime against the person of the President or Vice President of the United States, the Governor of any state or territory, any United States justice or judge, or the secretary of any of the executive departments of the United States.

They are punishable as follows:

When they conspire to commit any crime against the person of any official specified in subdivision 6, they are guilty of a felony and are punishable by imprisonment in the state prison for five, six or seven years.

When they conspire to commit any other felony, they shall be punishable in the same manner and to the same extent as is provided for the punishment of the said felony. If the felony is one for which different punishments are prescribed for different degrees, the jury or court which finds the defendant guilty thereof shall determine the degree of the felony defendant conspired to commit. If the degree is not so determined, the punishment for conspiracy to commit such felony shall be that prescribed for the lesser degree, except in the case of conspiracy to commit murder, in which case the punishment shall be that prescribed for murder in the first degree.

If the felony is conspiracy to commit two or more felonies which have different punishments and the commission of such felonies constitute but one offense of conspiracy, the penalty shall be that prescribed for the felony which has the greater maximum term.

When they conspire to do an act described in subdivision 4 of this section, they shall be punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year, or by a fine not exceeding five thousand dollars ($5,000), or both.

When they conspire to do any of the other acts described in this section they shall be punishable by imprisonment in the county jail for not more than one year, or in the state prison, or by a fine not exceeding five thousand dollars ($5,000) or both.

All cases of conspiracy may be prosecuted and tried in the superior court of any county in which any overt act tending to effect such conspiracy shall be done.

SEC. 133. Section 190 of the Penal Code is amended to read:

190. Every person guilty of murder in the first degree shall suffer death if any one or more of the special circumstances enumerated in Section 190.2 have been charged and found to be true in the manner provided in Section 190.1. Every person otherwise guilty of murder in the first degree shall suffer confinement in the state prison for life, unless he or she is guilty of murder in the first degree which is perpetuated by means of torture with the intent to kill, in which case he or she shall suffer confinement in the state prison without the possibility of parole. Every person guilty of murder in the second degree is punishable by imprisonment in the state prison for five, six, or seven years.

SEC. 133.5. Section 190.5 is added to the Penal Code, to read:

190.5. Every person guilty of murder in the first degree shall suffer death if any one or more of the special circumstances enumerated in Section 190.2 have been charged and found to be true in the manner provided in Section 190.1. Every person otherwise guilty of murder in the first degree shall suffer confinement in the state prison for life. Every person guilty of murder in the second

degree is punishable by imprisonment in the state prison for five, six, or seven years.

SEC. 134. Section 193 of the Penal Code is amended to read:

193. Manslaughter is punishable by imprisonment in the state prison for two, three or four years, except that a violation of subsection 3 of Section 192 of this code is punishable as follows: In the case of a violation of subdivision (a) of said subsection 3 the punishment shall be either by imprisonment in the county jail for not more than one year or in the state prison, and in such case the jury may recommend by their verdict that the punishment shall be by imprisonment in the county jail; in the case of a violation of subdivision (b) of said subsection 3, the punishment shall be by imprisonment in the county jail for not more than one year. In cases where, as authorized in this section, the jury recommends by their verdict that the punishment shall be by imprisonment in the county jail, the court shall not have authority to sentence the defendant to imprisonment in the state prison, but may nevertheless place the defendant on probation as provided in this code.

SEC. 135. Section 204 of the Penal Code is amended to read:

204. Mayhem is punishable by imprisonment in the state prison for two, three or four years.

SEC. 136. Section 208 of the Penal Code is amended to read:

208. Kidnapping is punishable by imprisonment in the state prison for three, four or five years.

SEC. 136.5. Section 209 of the Penal Code is amended to read:

209. (a) Any person who seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away any individual by any means whatsoever with intent to hold or detain, or who holds or detains, such individual for ransom, reward or to commit extortion or to exact from relatives or friends of such person any money or valuable thing, or any person who aids or abets any such act, is guilty of a felony and upon conviction thereof shall suffer death in cases in which any person subjected to any such act suffers death, or shall be punished by imprisonment in the state prison for life without possibility of parole in cases in which any person subjected to any such act suffers bodily harm, or shall be punished by imprisonment in the state prison for life with the possibility of parole in cases where no such person suffers death or bodily harm.

(b) Any person who kidnaps or carries away any individual to commit robbery shall be punished by imprisonment in the state prison for life with possibility of parole.

SEC. 137. Section 210 of the Penal Code is amended to read:

210. Every person who for the purpose of obtaining any ransom or reward, or to extort or exact from any person any money or thing of value, poses as, or in any manner represents himself to be a person who has seized, confined, inveigled, enticed, decoyed, abducted, concealed, kidnapped or carried away any person, or who poses as, or in any manner represents himself to be a person who holds or detains such person, or who poses as, or in any manner represents

himself to be a person who has aided or abetted any such act, or who poses as or in any manner represents himself to be a person who has the influence, power, or ability, to obtain the release of such person so seized, confined, inveigled, enticed, decoyed, abducted, concealed, kidnapped or carried away, is guilty of a felony and upon conviction thereof shall be punished by imprisonment for two, three or four years.

Nothing in this section prohibits any person who, in good faith believes that he can rescue any person who has been seized, confined, inveigled, enticed, decoyed, abducted, concealed, kidnapped or carried away, and who has had no part in, or connection with, such confinement, inveigling, decoying, abducting, concealing, kidnapping, or carrying away, from offering to rescue or obtain the release of such person for a monetary consideration or other thing of value.

SEC. 137.5. Section 211a of the Penal Code is amended to read:

211a. The robbery of any person who is performing his duties as operator of any motor vehicle, streetcar, or trackless trolley used for the transportation of persons for hire, is punishable by imprisonment in the state prison for three, four or five years.

SEC. 138. Section 213 of the Penal Code is amended to read:

213. Robbery is punishable by imprisonment in the state prison for two, three or four years.

Notwithstanding Section 664, attempted robbery is punishable by imprisonment in the state prison.

SEC. 139. Section 216 of the Penal Code is amended to read:

216. Every person who, with intent to kill, administers, or causes or procures to be administered, to another, any poison or other noxious or destructive substance or liquid, but by which death is not caused, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 140. Section 217 of the Penal Code is amended to read:

217. Every person who assaults another with intent to commit murder, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 141. Section 217.1 of the Penal Code is amended to read:

217.1. Every person who attempts to kill, or who commits any assault upon the President or Vice President of the United States, the Governor of any state or territory, any United States justice or judge, or the secretary of any of the executive departments of the United States, is guilty of a felony and is punishable by imprisonment in the state prison for three, four, or five years.

SEC. 141.5. Section 218 of the Penal Code is amended to read:

218. Every person who unlawfully throws out a switch, removes a rail, or places any obstruction on any railroad with the intention of derailing any passenger, freight or other train, car or engine, or who unlawfully places any dynamite or other explosive material or any other obstruction upon or near the track of any railroad with the intention of blowing up or derailing any such train, car or engine, or

who unlawfully sets fire to any railroad bridge or trestle, over which any such train, car or engine must pass with the intention of wrecking such train, car or engine, is guilty of a felony, and shall be punished by imprisonment in the state prison for life without possibility of parole.

SEC. 141.7. Section 219 of the Penal Code is amended to read:

219. Every person who unlawfully throws out a switch, removes a rail, or places any obstruction on any railroad with the intention of derailing any passenger, freight or other train, car or engine and thus derails the same, or who unlawfully places any dynamite or other explosive material or any other obstruction upon or near the track of any railroad with the intention of blowing up or derailing any such train, car or engine and thus blows up or derails the same, or who unlawfully sets fire to any railroad bridge or trestle over which any such train, car or engine must pass with the intention of wrecking such train, car or engine, and thus wrecks the same, is guilty of a felony and punishable with death in cases in which any person subjected to any such act suffers death as a proximate result thereof, or imprisonment in the state prison for life without possibility of parole in cases where any person suffers bodily harm as a proximate result thereof, or imprisonment in the state prison for life with the possibility of parole, in cases where no person suffers death or bodily harm as a proximate result thereof.

SEC. 142. Section 219.1 of the Penal Code is amended to read:

219.1. Every person who unlawfully throws, hurls or projects at a vehicle operated by a common carrier, while such vehicle is either in motion or stationary, any rock, stone, brick, bottle, piece of wood or metal or any other missile of any kind or character, or does any unlawful act, with the intention of wrecking such vehicle and doing bodily harm, and thus wrecks the same and causes bodily harm, is guilty of a felony and punishable by imprisonment in the state prison for two, three or four years.

SEC. 143. Section 219.2 of the Penal Code is amended to read:

219.2. Every person who willfully throws, hurls, or projects a stone or other hard substance, or shoots a missile, at a train, locomotive, railway car, caboose, cable railway car, street railway car, or bus or at a steam vessel or watercraft used for carrying passengers or freight on any of the waters within or bordering on this state, is punishable by imprisonment in the county jail not exceeding one year, or in a state prison or by fine not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 143.5. Section 219.2 of the Penal Code is amended to read:

219.2. Every person who willfully throws, hurls, or projects a stone or other hard substance, or shoots a missile, at a train, locomotive, railway car, caboose, cable railway car, street railway car, or bus or at a steam vessel or watercraft used for carrying passengers or freight on any of the waters within or bordering on this state, is punishable by imprisonment in the county jail not exceeding one

year, or in a state prison, or by fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 144. Section 220 of the Penal Code is amended to read:

220. Every person who assaults another with intent to commit rape, sodomy, mayhem, or robbery is punishable by imprisonment in the state prison for two, three or four years.

SEC. 145. Section 221 of the Penal Code is amended to read:

221. Every person who is guilty of an assault, with intent to commit any felony, except an assault with intent to commit murder, the punishment for which assault is not prescribed by the preceding section, is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding five hundred dollars ($500), or by both.

SEC. 145.5. Section 221 of the Penal Code is amended to read:

221. Every person who is guilty of an assault, with intent to commit any felony, except an assault with intent to commit murder, the punishment for which assault is not prescribed by the preceding section, is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding one thousand dollars ($1,000), or by both.

SEC. 146. Section 226 of the Penal Code is amended to read:

226. Every person guilty of fighting any duel, from which death ensues within a year and a day, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 147. Section 227 of the Penal Code is amended to read:

227. Every person who fights a duel, or who sends or accepts a challenge to fight a duel is punishable by imprisonment in the state prison, or in the county jail not exceeding one year.

SEC. 148. Section 237 of the Penal Code is amended to read:

237. False imprisonment is punishable by fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not more than one year, or by both. If such false imprisonment be effected by violence, menace, fraud, or deceit, it shall be punishable by imprisonment in the state prison.

SEC. 149. Section 241 of the Penal Code is amended to read:

241. An assault is punishable by fine not exceeding five hundred dollars ($500), 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of 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.

SEC. 149.2. Section 241 of the Penal Code is amended to read:

241. An assault is punishable by fine not exceeding five hundred dollars ($500), 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, 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.

SEC. 149.3. Section 241 of the Penal Code is amended to read:

241. An assault is punishable by fine 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of 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.

SEC. 149.5. Section 241 of the Penal Code is amended to read:

241. An assault is punishable by fine 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, 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.

SEC. 150. 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. 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 two, three, or four years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of 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.

SEC. 150.5. 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. 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 two, three, or four years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, 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.

SEC. 150.1. Section 243.1 is added to the Penal Code, to read:

243.1. When a battery is committed against the person of a custodial officer as defined in Section 831 of the Penal Code, and the person committing the offense knows or reasonably should know that such victim is a custodial officer engaged in the performance of his duties, and such custodial officer is engaged in the performance of his duties, the offense shall be punished by imprisonment in the state prison

SEC. 151. Section 244 of the Penal Code is amended to read:

244. Every person who willfully and maliciously places or throws, or causes to be placed or thrown, upon the person of another, any vitriol, corrosive acid, or caustic chemical of any nature, with the intent to injure the flesh or disfigure the body of such person, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 152. Section 245 of the Penal Code is amended to read:

245. (a) Every person who commits an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state prison for two, three, or four years, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment. When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

(b) Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer or fireman, and who knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, when such peace officer or fireman is engaged in the performance of his duties shall be punished by imprisonment in the state prison for three, four, or five years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of 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.

SEC. 152.5. Section 245 of the Penal Code is amended to read:

245. (a) Every person who commits an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state prison for two, three or four years, or in a county jail not exceeding one year, or by fine not exceeding five

thousand dollars ($5,000), or by both such fine and imprisonment. When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

(b) Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer or fireman, and who knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, when such peace officer or fireman is engaged in the performance of his duties shall be punished by imprisonment in the state prison for three, four, or five years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, 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.

SEC. 153. Section 246 of the Penal Code is amended to read:

246. Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house or occupied building, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year.

SEC. 154. Section 264 of the Penal Code is amended to read:

264. Rape, as defined in Section 261, is punishable by imprisonment in the state prison for three, four or five years. Unlawful sexual intercourse, as defined in Section 261.5, is punishable either by imprisonment in the county jail for not more than one year or in the state prison, and in such case the jury shall recommend by their verdict whether the punishment shall be by imprisonment in the county jail or in the state prison; provided, that when the defendant pleads guilty to an offense under Section 261.5 the punishment shall be in the discretion of the trial court, either by imprisonment in the county jail for not more than one year or in the state prison.

SEC. 155. Section 264.1 of the Penal Code is amended to read:

264.1. The provisions of Section 264 notwithstanding, in any case in which defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed the rape, either personally or by aiding and abetting such other person, such fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, defendant shall suffer confinement in the state prison for five, six or seven years.

SEC. 156. Section 265 of the Penal Code is amended to read:

265. Every person who takes any woman unlawfully, against her will, and by force, menace or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the state prison.

SEC. 157. Section 266 of the Penal Code is amended to read:

266. Every person who inveigles or entices any unmarried female, of previous chaste character, under the age of 18 years, into any house of ill fame, or of assignation, or elsewhere, for the purpose of prostitution, or to have illicit carnal connection with any man; and every person who aids or assists in such inveiglement or enticement; and every person who, by any false pretenses, false representation, or other fraudulent means, procures any female to have illicit carnal connection with any man, is punishable by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 158. Section 266a of the Penal Code is amended to read:

266a. Every person who, within this state, takes any person against his or her will and without his or her consent, or with his or her consent procured by fraudulent inducement or misrepresentation, for the purpose of prostitution, as defined in subdivision (b) of Section 647, is punishable by imprisonment in the state prison, and a fine not exceeding one thousand dollars ($1,000).

SEC. 159. Section 266b of the Penal Code is amended to read:

266b. Every person who takes any other person unlawfully, and against his or her will, and by force, menace, or duress, compels him or her to live with such person in an illicit relation, against his or her consent, or to so live with any other person, is punishable by imprisonment in the state prison.

SEC. 160. Section 266g of the Penal Code is amended to read:

266g. Every man who, by force, intimidation, threats, persuasion, promises, or any other means, places or leaves, or procures any other person or persons to place or leave, his wife in a house of prostitution, or connives at or consents to, or permits, the placing or leaving of his wife in a house of prostitution, or allows or permits her to remain therein, is guilty of a felony and punishable by imprisonment in the state prison for two, three or four years; and in all prosecutions under this section a wife is a competent witness against her husband.

SEC. 161. Section 266h of the Penal Code is amended to read:

266h. Any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of such person's prostitution, or from money loaned or advanced to or charged against such person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for such person, is guilty of pimping, a felony, and is punishable by imprisonment in the state prison for two, three or four years.

SEC. 162. Section 266i of the Penal Code is amended to read:

266i. Any person who: (a) procures another person for the purpose of prostitution; or (b) by promises, threats, violence, or by any device or scheme, causes, induces, persuades or encourages another person to become a prostitute; or (c) procures for another person a place as inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this state; or (d) by promises, threats, violence or by any device or scheme, causes, induces, persuades or encourages an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as an inmate; or (e) by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution; or (f) receives or gives, or agrees to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution, is guilty of pandering, a felony, and is punishable by imprisonment in the state prison for two, three or four years.

SEC. 163. Section 267 of the Penal Code is amended to read:

267. Every person who takes away any other person under the age of 18 years from the father, mother, guardian, or other person having the legal charge of the other person, without their consent, for the purpose of prostitution, is punishable by imprisonment in the state prison, and a fine not exceeding one thousand dollars ($1,000).

SEC. 164. Section 268 of the Penal Code is amended to read:

268. Every person who, under promise of marriage, seduces and has sexual intercourse with an unmarried female of previous chaste character, is punishable by imprisonment in the state prison, or by a fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 165. Section 273a of the Penal Code is amended to read:

273a. (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison.

(2) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such

child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

SEC. 166. Section 273d of the Penal Code is amended to read:

273d. Any husband who willfully inflicts upon his wife corporal injury resulting in a traumatic condition, and any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year.

SEC. 167. Section 274 of the Penal Code is amended to read:

274. Every person who provides, supplies, or administers to any woman, or procures any woman to take any medicine, drug, or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, except as provided in the Therapeutic Abortion Act, Chapter 11 (commencing with Section 25950) of Division 20 of the Health and Safety Code, is punishable by imprisonment in the state prison.

SEC. 168. Section 275 of the Penal Code is amended to read:

275. Every woman who solicits of any person any medicine, drug, or substance whatever, and takes the same, or who submits to any operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, except as provided in the Therapeutic Abortion Act, Chapter 11 (commencing with Section 25950) of Division 20 of the Health and Safety Code, is punishable by imprisonment in the state prison.

SEC. 169. Section 276 of the Penal Code is amended to read:

276. Every person who solicits any woman to submit to any operation, or to the use of any means whatever, to procure a miscarriage, except as provided in the Therapeutic Abortion Act, Chapter 11 (commencing with Section 25950) of Division 20 of the Health and Safety Code, is punishable by imprisonment in the county jail not longer than one year or in the state prison, or by fine of not more than five thousand dollars ($5,000). Such offense must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances.

SEC. 170. Section 278 of the Penal Code is amended to read:

278. Every person who maliciously, forcibly, or fraudulently takes or entices away any minor child with intent to detain and conceal such child from its parent, guardian, or other person having the lawful charge of such child, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 171. Section 280 of the Penal Code is amended to read:

280. Every person who willfully causes or permits the removal or concealment of any child in violation of Section 226.10 of the Civil Code is punishable as follows:

(a) By imprisonment in the county jail for not more than one year

if the child is concealed within the county in which the adoption proceeding is pending or in which the child has been placed for adoption, or is removed from such county to a place within this state; or

(b) By imprisonment in the state prison, or by imprisonment in the county jail for not more than one year if the child is removed from such county to a place outside of this state.

SEC. 172. Section 283 of the Penal Code is amended to read:

283. Bigamy is punishable by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in a county jail not exceeding one year or in the state prison.

SEC. 173. Section 284 of the Penal Code is amended to read:

284. Every person who knowingly and willfully marries the husband or wife of another, in any case in which such husband or wife would be punishable under the provisions of this chapter, is punishable by fine not less than five thousand dollars ($5,000), or by imprisonment in the state prison.

SEC. 174. Section 285 of the Penal Code is amended to read:

285. Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the state prison.

SEC. 175. Section 286 of the Penal Code is amended to read:

286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person.

(b) (1) Any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Any person over the age of 21 who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he, or who has compelled the participation of another person in an act of sodomy by force, violence, duress, menace, or threat of great bodily harm, shall be punished by imprisonment in the state prison two three or four years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of sodomy by force or violence and against the will of the victim shall be punished by imprisonment in the state prison for three, four or five years.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

SEC. 177. Section 288 of the Penal Code is amended to read:

288. Any person who shall willfully and lewdly commit any lewd or lascivious act including any of the acts constituting other crimes provided for in Part 1 of this code upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be guilty of a felony and shall be imprisoned in the state prison for a term of three, four or five years.

SEC. 178. Section 288a of the Penal Code is amended to read:

288a. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ of another person.

(b) (1) Any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Any person over the age of 21 who participates in an act of oral copulation with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he, or who has compelled the participation of another person in an act of oral copulation by force, violence, duress, menace, or threat of great bodily harm, shall be punished by imprisonment in the state prison for two, three or four years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of oral copulation by force or violence and against the will of the victim shall be punished by imprisonment in the state prison for three, four or five years.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

SEC. 180. Section 311.9 of the Penal Code is amended to read:

311.9. (a) Every person who violates Section 311.2 or 311.5 is punishable by fine of not more than one thousand dollars ($1,000) plus five dollars ($5) for each additional unit of material coming within the provisions of this chapter, which is involved in the offense, not to exceed ten thousand dollars ($10,000), or by imprisonment in the county jail for not more than six months plus one day for each additional unit of material coming within the provisions of this chapter, and which is involved in the offense, such basic maximum and additional days not to exceed 360 days in the county jail, or by both such fine and imprisonment. If such person has previously been convicted of any offense in this chapter, or of a violation of Section 313.1, a violation of Section 311.2 or 311.5 is punishable as a felony.

(b) Every person who violates Section 311.4 is punishable by fine of not more than two thousand dollars ($2,000) or by imprisonment

in the county jail for not more than one year, or by both such fine and such imprisonment. If such person has been previously convicted of a violation of former Section 311.3 or Section 311.4, he is punishable by imprisonment in the state prison.

(c) Every person who violates Section 311.7 is punishable by fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. For a second and subsequent offense he shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. If such person has been twice convicted of a violation of this chapter, a violation of Section 311.7 is punishable as a felony.

SEC. 181. Section 313.4 of the Penal Code is amended to read:

313.4. Every person who violates Section 313.1 is punishable by fine of not more than two thousand dollars ($2,000) or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. If such person has been previously convicted of a violation of Section 313.1 or any section of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code, he is punishable by imprisonment in the state prison.

SEC. 182. Section 314 of the Penal Code is amended to read:

314. Every person who willfully and lewdly, either:

1. Exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or,

2. Procures, counsels, or assists any person so to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view, or the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor.

Upon the second and each subsequent conviction under subdivision 1 of this section, or upon a first conviction under subdivision 1 of this section after a previous conviction under Section 288 of this code, every person so convicted is guilty of a felony, and is punishable by imprisonment in state prison.

SEC. 183. Section 337a of the Penal Code is amended to read:

337a. Every person,

1. Who engages in pool selling or bookmaking, with or without writing, at any time or place; or

2. Who, whether for gain, hire, reward, or gratuitously, or otherwise, keeps or occupies, for any period of time whatsoever, any room, shed, tenement, tent, booth, building, float, vessel, place, stand or enclosure, of any kind, or any part thereof, with a book or books, paper or papers, apparatus, device or paraphernalia, for the purpose of recording or registering any bet or bets, or any purported bet or bets, or wager or wagers, or any purported wager or wagers, or of selling pools, or purported pools, upon the result, or purported result, of any trial, or purported trial,

or contest, or purported contest, of skill, speed or power of endurance of man or beast, or between men, beasts, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever; or

3. Who, whether for gain, hire, reward, or gratuitously, or otherwise, receives, holds, or forwards, or purports or pretends to receive, hold, or forward, in any manner whatsoever, any money, thing or consideration of value, or the equivalent or memorandum thereof, staked, pledged, bet or wagered, or to be staked, pledged, bet or wagered, or offered for the purpose of being staked, pledged, bet or wagered, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of man or beast, or between men, beasts, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever; or

4. Who, whether for gain, hire, reward, or gratuitously, or otherwise, at any time or place, records, or registers any bet or bets, wager or wagers, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of man or beast, or between men, beasts, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever; or

5. Who, being the owner, lessee or occupant of any room, shed, tenement, tent, booth, building, float, vessel, place, stand, enclosure or grounds, or any part thereof, whether for gain, hire, reward, or gratuitously, or otherwise, permits the same to be used or occupied for any purpose, or in any manner prohibited by subdivisions 1, 2, 3 or 4 of this section; or

6. Who lays, makes, offers or accepts any bet or bets, or wager or wagers, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of man or beast, or between men, beasts, or mechanical apparatus,

is punishable by imprisonment in the county jail for a period of not more than one year or in the state prison.

This section shall apply not only to persons who may commit any of the acts designated in subdivisions 1 to 6 inclusive of this section, as a business or occupation, but shall also apply to every person or persons who may do in a single instance any one of the acts specified in said subdivisions 1 to 6 inclusive.

SEC. 184. Section 337b of the Penal Code is amended to read:

337b. Any person who gives, or offers or promises to give, or attempts to give or offer, any money, bribe, or thing of value, to any participant or player, or to any prospective participant or player, in any sporting event, contest, or exhibition of any kind whatsoever, except a wrestling exhibition as defined in Section 18607 of the Business and Professions Code, and specifically including, but

without being limited to, such sporting events, contests, and exhibitions as baseball, football, basketball, boxing, horseracing, and wrestling matches, with the intention or understanding or agreement that such participant or player or such prospective participant or player shall not use his best efforts to win such sporting event, contest, or exhibition, or shall so conduct himself in such sporting event, contest, or exhibition that any other player, participant or team of players or participants shall thereby be assisted or enabled to win such sporting event, contest, or exhibition, or shall so conduct himself in such sporting event, contest, or exhibition as to limit his or his team's margin of victory in such sporting event, contest, or exhibition, is guilty of a felony, and shall be punished by imprisonment in the state prison, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 185. Section 337c of the Penal Code is amended to read:

337c. Any person who accepts, or attempts to accept, or offers to accept, or agrees to accept, any money, bribe or thing of value, with the intention or understanding or agreement that he will not use his best efforts to win any sporting event, contest, or exhibition of any kind whatsoever, except a wrestling exhibition as defined in Section 18607 of the Business and Professions Code, and specifically including, but without being limited to, such sporting events, contests, or exhibitions as baseball, football, basketball, boxing, horseracing, and wrestling matches, in which he is playing or participating or is about to play or participate in, or will so conduct himself in such sporting event, contest, or exhibition that any other player or participant or team of players or participants shall thereby be assisted or enabled to win such sporting event, contest, or exhibition, or will so conduct himself in such sporting event, contest, or exhibition as to limit his or his team's margin of victory in such sporting event, contest, or exhibition, is guilty of a felony, and shall be punished by imprisonment in the state prison, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 186. Section 337d of the Penal Code is amended to read:

337d. Any person who gives, or offers to give, or promises to give, or attempts to give, any money, bribe or thing of value to any person who is umpiring, managing, directing, refereeing, supervising, judging, presiding or officiating at, or who is about to umpire, manage, direct, referee, supervise, judge, preside or officiate at any sporting event, contest, or exhibition of any kind whatsoever, and specifically including, but without being limited to, such sporting events, contests, and exhibitions as baseball, football, boxing, horseracing, and wrestling matches, with the intention or agreement or understanding that such person shall corruptly or dishonestly umpire, manage, direct, referee, supervise, judge, preside, or officiate at, any such sporting event, contest, or exhibition, or the players or participants thereof, with the intention or purpose that the

result of the sporting event, contest, or exhibition will be affected or influenced thereby, is guilty of a felony and shall be punished by imprisonment in the state prison, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 187. Section 337e of the Penal Code is amended to read:

337e. Any person who as umpire, manager, director, referee, supervisor, judge, presiding officer or official receives or agrees to receive, or attempts to receive any money, bribe or thing of value, with the understanding or agreement that such umpire, manager, director, referee, supervisor, judge, presiding officer, or official shall corruptly conduct himself or shall corruptly umpire, manage, direct, referee, supervise, judge, preside, or officiate at, any sporting event, contest, or exhibition of any kind whatsoever, and specifically including, but without being limited to, such sporting events, contests, and exhibitions as baseball, football, boxing, horseracing, and wrestling matches, or any player or participant thereof, with the intention or purpose that the result of the sporting event, contest, or exhibition will be affected or influenced thereby, is guilty of a felony and shall be punished by imprisonment in the state prison, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 188. Section 337f of the Penal Code is amended to read:

337f. Any person: (a) Who influences, or induces, or conspires with, any owner, jockey, groom or other person associated with or interested in any stable, horse, or race in which a horse participates, to affect the result of such race by stimulating or depressing a horse through the administration of any drug to such horse, or by the use of any electrical device or any electrical equipment or by any mechanical or other device not generally accepted as regulation racing equipment, or

(b) Who so stimulates or depresses a horse, or

(c) Who knowingly enters any horse in any race within a period of 24 hours after any drug has been administered to such horse for the purpose of increasing or retarding the speed of such horse, is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment, or

(d) Who willfully or unjustifiably enters or races any horse in any running or trotting race under any name or designation other than the name or designation assigned to such horse by and registered with the Jockey Club or the United States Trotting Association or who willfully sets on foot, instigates, engages in or in any way furthers any act by which any horse is entered or raced in any running or trotting race under any name or designation other than the name or designation duly assigned by and registered with the Jockey Club or the United States Trotting Association is guilty of a felony and punishable by imprisonment in the state prison, or by a fine not exceeding five thousand dollars ($5,000) or by both such fine and imprisonment.

The term "drug" includes all substances recognized as having the power of stimulating or depressing the central nervous system, respiration, or blood pressure of an animal, such as narcotics, hypnotics, benzedrine or its derivatives, but shall not include recognized vitamins or supplemental feeds approved by the veterinarian representing the California Racing Board.

SEC. 189. Section 337i of the Penal Code is amended to read:

337i. Every person who knowingly transmits information as to the progress or results of a horserace, or information as to wagers, betting odds, changes in betting odds, post or off times, jockey or player changes in any contest or trial, or purported contest or trial, involving humans, beasts, or mechanical apparatus by any means whatsoever including, but not limited to telephone, telegraph, radio, and semaphore when such information is transmitted to or by a person or persons engaged in illegal gambling operations, is punishable by imprisonment in the county jail for a period of not more than one year or in the state prison.

This section shall not be construed as prohibiting a newspaper from printing such results or information as news, or any television or radio station from telecasting or broadcasting such results or information as news. This section shall not be so construed as to place in jeopardy any common carrier or its agents performing operations within the scope of a public franchise, or any gambling operation authorized by law.

SEC. 190. Section 337.3 of the Penal Code is amended to read:

337.3. Any person who in the commission of touting falsely uses the name of any official of the California Horse Racing Board, its inspectors or attachés, or of any official of any race track association, or the names of any owner, trainer, jockey or other person licensed by the California Horse Racing Board as the source of any information or purported information is guilty of a felony and is punishable by a fine of not more than five thousand dollars ($5,000) or by imprisonment in the state prison, or by both such fine and imprisonment.

SEC. 191. Section 337.7 of the Penal Code is amended to read:

337.7. Any person other than the lawful holder thereof who has in his possession any credential or license issued by the California Horse Racing Board to licensees and any person who has a forged or simulated credential or license of said board in his possession, and who uses such credential or license for the purpose of misrepresentation, fraud or touting is guilty of a felony and shall be punished by a fine of five thousand dollars ($5,000) or by imprisonment in the state prison, or by both such fine and imprisonment. If he has previously been convicted of any offense under this chapter, he shall be imprisoned.

SEC. 192. Section 347 of the Penal Code is amended to read:

347. Every person who willfully mingles any harmful substance with any food, drink, or medicine, with intent that the same shall be taken by any human being to his injury, and every person who

willfully poisons any spring, well, or reservoir of water, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 193. Section 375 of the Penal Code is amended to read:

375. (1) It shall be unlawful to throw, drop, pour, deposit, release, discharge or expose, or to attempt to throw, drop, pour, deposit, release, discharge or expose in, upon or about any theater, restaurant, place of business, place of amusement or any place of public assemblage, any liquid, gaseous or solid substance or matter of any kind which is injurious to person or property, or is nauseous, sickening, irritating or offensive to any of the senses.

(2) It shall be unlawful to manufacture or prepare, or to possess any liquid, gaseous, or solid substance or matter of any kind which is injurious to person or property, or is nauseous, sickening, irritating or offensive, to any of the senses with intent to throw, drop, pour, deposit, release, discharge or expose the same in, upon or about any theater, restaurant, place of business, place of amusement, or any other place of public assemblage.

(3) Penalty. Any person violating any of the provisions hereof shall be punished by imprisonment in the county jail for not less than three months and not more than one year, or by a fine of not less than five hundred dollars ($500) and not more than two thousand dollars ($2,000), or by both such fine and imprisonment.

(4) Any person who, in violating any of the provisions of subdivision (1) of this section, willfully employs or uses any liquid, gaseous or solid substance which may produce serious illness or permanent injury through being vaporized or otherwise disbursed in the air or who, in violating any of the provisions of subdivision (1) of this section, willfully employs or uses any tear gas, mustard gas or any of the combinations or compounds thereof, or willfully employs or uses acid or explosives, shall be guilty of a felony and shall be punished by imprisonment in the state prison.

SEC. 194. Section 382.5 of the Penal Code is amended to read:

382.5. Every person who sells, dispenses, administers or prescribes dinitrophenol for any purpose shall be guilty of a felony, punishable by a fine not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or by imprisonment in the state prison, or by both such fine and imprisonment.

This section shall not apply to dinitrophenol manufactured or sold as an economic poison registered under the provision of Section 1071 of the Food and Agricultural Code nor to sales for use in manufacturing or for scientific purposes, and not for human consumption.

SEC. 195. Section 382.6 of the Penal Code is amended to read:

382.6. Every person who sells, dispenses, administers or prescribes preparations containing diphenylamine, paraphenylenediamine, or paratoluylenediamine, or a derivative of any such chemicals, to be used as eyebrow and eyelash dye, shall be guilty of a felony, punishable by a fine not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or by

imprisonment in the state prison, or by both such fine and imprisonment.

SEC. 196. Section 405b of the Penal Code is amended to read:

405b. Every person who participates in any lynching is punishable by imprisonment in the state prison for two, three or four years.

SEC. 197. Section 424 of the Penal Code is amended to read:

424. Each officer of this state, or of any county, city, town, or district of this state, and every other person charged with the receipt, safekeeping, transfer, or disbursement of public moneys, who either:

1. Without authority of law, appropriates the same, or any portion thereof, to his own use, or to the use of another; or,

2. Loans the same or any portion thereof; makes any profit out of, or uses the same for any purpose not authorized by law; or,

3. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the same; or,

4. Fraudulently alters, falsifies, conceals, destroys, or obliterates any such account; or,

5. Willfully refuses or omits to pay over, on demand, any public moneys in his hands, upon the presentation of a draft, order, or warrant drawn upon such moneys by competent authority; or,

6. Willfully omits to transfer the same, when such transfer is required by law; or,

7. Willfully omits or refuses to pay over to any officer or person authorized by law to receive the same, any money received by him under any duty imposed by law so to pay over the same;—

Is punishable by imprisonment in the state prison for two, three or four years, and is disqualified from holding any office in this state.

As used in this section, "public moneys" includes the proceeds derived from the sale of bonds or other evidence of indebtedness authorized by the legislative body of any city, county, district, or public agency.

SEC. 198. Section 447a of the Penal Code is amended to read:

447a. Any person who willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of any trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, or any kitchen, shop, barn, stable or other outhouse that is parcel thereof, or belonging to or adjoining thereto, whether the property of himself or of another, shall be guilty of arson, and upon conviction thereof, be sentenced to the state prison for two, three or four years.

SEC. 199. Section 448a of the Penal Code is amended to read:

448a. Any person who willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of any barn, stable, garage or other building, whether the property of himself or of another, not a parcel of a dwelling house; or any shop, storehouse, warehouse, factory, mill or other building, whether the property of himself or of another; or any church, meetinghouse, courthouse, workhouse, school, jail or other public

building or any public bridge; shall, upon conviction thereof, be sentenced to the state prison for two, three or four years.

SEC. 200. Section 449a of the Penal Code is amended to read:

449a. Any person who willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of any barrack, cock, crib, rick or stack of hay, corn, wheat, oats, barley or other grain or vegetable product of any kind; or any field of standing hay or grain of any kind; or any pile of coal, wood or other fuel; or any pile of planks, boards, posts, rails or other lumber; or any streetcar, railway car, ship, boat or other watercraft, automobile or other motor vehicle; or any other personal property not herein specifically named except a trailer coach, as defined in Section 635 of the Vehicle Code; (such property being of the value of twenty-five dollars ($25) and the property of another person) shall upon conviction thereof, be sentenced to the state prison.

SEC. 201. Section 449b of the Penal Code is amended to read:

449b. Every person who willfully and maliciously burns any bridge exceeding in value fifty dollars ($50), or any structure, snowshed, vessel, or boat, not the subject of arson, or any tent, or any stack of hay or grain or straw of any kind, or any pile or baled hay or straw, or any pile of potatoes, or beans, or vegetables, or produce, or fruit of any kind, whether sacked, boxed, crated, or not, or any fence, or any railroad car, lumber, cordwood, railroad ties, telegraph or telephone poles, or shakes, or any tuleland or peatground of the value of twenty-five dollars ($25) or over, not the property of such person is punishable by imprisonment in the state prison.

SEC. 203. Section 449c of the Penal Code is amended to read:

449c. Every person who willfully and maliciously burns any growing or standing grain, grass or tree, or any grass, forest, woods, timber, brush-covered land, or slashing, cutover land, not the property of such person is punishable by imprisonment in the state prison.

SEC. 204. Section 450a of the Penal Code is amended to read:

450a. Any person who willfully and with intent to injure or defraud the insurer sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of any goods, wares, merchandise or other chattels or personal property of any kind, whether the property of himself or of another, which shall at the time be insured by any person or corporation against loss or damage by fire; shall upon conviction thereof, be sentenced to the state prison.

SEC. 205. Section 452 of the Penal Code is amended to read:

452. (a) Every person who possesses any flammable, explosive or combustible material or substance, or any device in an arrangement or preparation, with intent to willfully and maliciously use such material, substance or device to set fire to or burn any buildings or property mentioned in this chapter, is punishable by imprisonment in the state prison, or in the county jail, not exceeding one year.

(b) Every person who possesses, manufactures or disposes of a firebomb is guilty of a felony.

For the purposes of this subdivision, "disposes of" means to give, give away, loan, offer, offer for sale, sell, or transfer.

For the purposes of this subdivision, a "firebomb" is a breakable container containing a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less, having a wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illumination shall be deemed to be a firebomb for the purposes of this subdivision.

(c) Subdivisions (a) and (b) of this section shall not prohibit the authorized use or possession of any material, substance or device described therein by a member of the armed forces of the United States or by firemen, police officers, peace officers, or law enforcement officers authorized by the properly constituted authorities; nor shall those subdivisions prohibit the use or possession of any material, substance or device described therein when used solely for scientific research or educational purposes, or for disposal of brush under permit as provided for in Section 4494 of the Public Resources Code, or for any other lawful burning. Subdivision (b) of this section shall not prohibit the manufacture or disposal of a firebomb for the parties or purposes described in this subdivision.

SEC. 206. Section 454 of the Penal Code is amended to read:

454. Every person who violates the provisions of Section 447a, 448a, 449a, 449b, 449c or 450a during and within the area of a state of insurrection, a state of disaster or a state of extreme emergency as proclaimed by the Governor pursuant to Section 143, 1575 or 1580, respectively, of the Military and Veterans Code, provided that such state of disaster or extreme emergency is proclaimed because of riot, is punishable by imprisonment in the state prison for three, four or five years.

SEC. 206.5. Section 460 of the Penal Code is amended to read:

460. 1. Every burglary of an inhabited dwelling house, trailer coach as defined by the Vehicle Code, or building committed in the nighttime, is burglary of the first degree.

2. All other kinds of burglary are of the second degree.

3. This section shall not be construed to supersede or affect Section 464 of the Penal Code.

SEC. 207. Section 461 of the Penal Code is amended to read:

461. Burglary is punishable as follows:

1. Burglary in the first degree: by imprisonment in the state prison for two, three, or four years.

2. Burglary in the second degree: by imprisonment in the county jail not exceeding one year or in the state prison.

SEC. 208. Section 464 of the Penal Code is amended to read:

464. Any person who, with intent to commit crime, enters, either by day or by night, any building, whether inhabited or not, and opens or attempts to open any vault, safe, or other secure place by use of acetylene torch or electric arc, burning bar, thermal lance, oxygen lance, or any other similar device capable of burning through steel, concrete, or any other solid substance, or by use of nitroglycerine,

dynamite, gunpowder, or any other explosive, is guilty of a felony and, upon conviction, shall be punished by imprisonment in the state prison for a term of three, four or five years.

SEC. 209. Section 470a of the Penal Code, is amended to read:

470a. Every person who alters, falsifies, forges, duplicates or in any manner reproduces or counterfeits any driver's license or identification card issued by a governmental agency with the intent that such driver's license or identification card be used to facilitate the commission of any forgery, is punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

SEC. 210. Section 470b of the Penal Code, is amended to read:

470b. Every person who displays or causes or permits to be displayed or has in his possession any driver's license or identification card of the type enumerated in Section 470a with the intent that such driver's license or identification card be used to facilitate the commission of any forgery, is punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

SEC. 211. Section 473 of the Penal Code is amended to read:

473. Forgery is punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

SEC. 212. Section 474 of the Penal Code is amended to read:

474. Every person who knowingly and willfully sends by telegraph or telephone to any person a false or forged message, purporting to be from a telegraph or telephone office, or from any other person, or who willfully delivers or causes to be delivered to any person any such message falsely purporting to have been received by telegraph or telephone, or who furnishes, or conspires to furnish, or causes to be furnished to any agent, operator, or employee, to be sent by telegraph or telephone, or to be delivered, any such message, knowing the same to be false or forged, with the intent to deceive, injure, or defraud another, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 213. Section 475 of the Penal Code is amended to read:

475. Every person who has in his possession, or receives from another person, any forged promissory note or bank bill, or bills, or any counterfeited trading stamp, or stamps, for the payment of money or property, with the intention to pass the same, or to permit, cause, or procure the same to be uttered or passed, with the intention to defraud any person, knowing the same to be forged or counterfeited, or has or keeps in his possession any blank or unfinished note or bank bill made in the form or similitude of any promissory note or bill for payment of money or property, made to be issued by any incorporated bank or banking company, or any blank or unfinished check, money order, or traveler's check, made in the form or similitude of any check, money order, or traveler's

check, whether the parties thereto are real or fictitious, with intention to fill up and complete such blank and unfinished note or bill, check, money order, or traveler's check, or to permit, or cause, or procure the same to be filled up and completed in order to utter or pass the same, or to permit, or cause, or procure the same to be uttered or passed, to defraud any person, is punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

SEC. 214. Section 475a of the Penal Code is amended to read:

475a. Every person who has in his possession a completed check, money order, traveler's check, controller's warrant for the payment of money at the treasury, or county order or warrant, whether the parties thereto are real or fictitious, with intention to utter or pass the same, or to permit, cause, or procure the same to be uttered or passed, to defraud any person, is punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

SEC. 215. Section 476 of the Penal Code is amended to read:

476. Every person who makes, passes, utters, or publishes, with intention to defraud any other person, or who, with the like intention, attempts to pass, utter, or publish, or who has in his possession, with like intent to utter, pass, or publish, any fictitious bill, note, or check, purporting to be the bill, note, or check, or other instrument in writing for the payment of money or property of some bank, corporation, copartnership, or individual, when, in fact, there is no such bank, corporation, copartnership, or individual in existence, knowing the bill, note, check, or instrument in writing to be fictitious, is punishable by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 216. Section 476a of the Penal Code is amended to read:

476a. (a) Any person who for himself or as the agent or representative of another or as an officer of a corporation, willfully, with intent to defraud, makes or draws or utters or delivers any check, or draft or order upon any bank or depositary, or person, or firm, or corporation, for the payment of money, knowing at the time of such making, drawing, uttering or delivering that the maker or drawer or the corporation has not sufficient funds in, or credit with said bank or depositary, or person, or firm, or corporation, for the payment of such check, draft or order and all other checks, drafts or orders upon such funds then outstanding, in full upon its presentation, although no express representation is made with reference thereto, is punishable by imprisonment in the county jail for not more than one year, or in the state prison.

(b) However, if the total amount of all such checks, drafts, or orders that the defendant is charged with and convicted of making, drawing, or uttering does not exceed one hundred dollars ($100), the offense is punishable only by imprisonment in the county jail for not more than one year, except that this subdivision shall not be applicable if the defendant has previously been convicted of a

violation of Section 470, 475, or 476 of this code, or of this section of this code, or of the crime of petty theft in a case in which defendant's offense was a violation also of Section 470, 475, or 476 of this code or of this section or if the defendant has previously been convicted of any offense under the laws of any other state or of the United States which, if committed in this state, would have been punishable as a violation of Section 470, 475 or 476 of this code or of this section of this code or if he has been so convicted of the crime of petty theft in a case in which, if defendant's offense had been committed in this state, it would have been a violation also of Section 470, 475, or 476 of this code, or of this section.

(c) Where such check, draft, or order is protested, on the ground of insufficiency of funds or credit, the notice of protest thereof shall be admissible as proof of presentation, nonpayment and protest and shall be presumptive evidence of knowledge of insufficiency of funds or credit with such bank or depositary, or person, or firm, or corporation.

(d) The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or depositary or person or firm or corporation for the payment of such check, draft or order.

(e) If any of the preceding paragraphs, or parts thereof, shall be found unconstitutional or invalid, the remainder of this section shall not thereby be invalidated, but shall remain in full force and effect.

SEC. 217. Section 478 of the Penal Code is amended to read:

478. Counterfeiting is punishable by imprisonment in the state prison for two, three or four years.

SEC. 218. Section 479 of the Penal Code is amended to read:

479. Every person who has in his possession, or receives for any other person, any counterfeit gold or silver coin of the species current in this state, or any counterfeit gold dust, gold or silver bullion or bars, lumps, pieces or nuggets, with the intention to sell, utter, put off or pass the same, or permits, causes or procures the same to be sold, uttered or passed, with intention to defraud any person, knowing the same to be counterfeit, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 219. Section 484b of the Penal Code is amended to read:

484b. Any person who receives money for the purpose of obtaining or paying for services, labor, materials or equipment and willfully fails to apply such money for such purpose by either willfully failing to complete the improvements for which funds were provided or willfully failing to pay for services, labor, materials or equipment provided incident to such construction, and wrongfully diverts the funds to a use other than that for which the funds were received, shall be guilty of a public offense and shall be punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in the county jail not exceeding one year, or by both such fine and such imprisonment if the amount diverted is in excess of one thousand dollars ($1,000). If the amount

diverted is less than one thousand dollars ($1,000), the person shall be guilty of a misdemeanor.

SEC. 220. Section 484i of the Penal Code is amended to read:

484i. (a) Every person who possesses an incomplete credit card, with intent to complete it without the consent of the issuer is guilty of a misdemeanor.

(b) Every person who with intent to defraud possesses, with knowledge of its character, machinery, plates or any other contrivance designed for, and made use of in, the reproduction of instruments purporting to be the credit cards of an issuer who has not consented to the preparation of such credit cards, is punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

SEC. 221. Section 487b of the Penal Code is amended to read:

487b. Every person who converts real estate of the value of fifty dollars ($50) or more into personal property by severance from the realty of another, and with felonious intent to do so, steals, takes, and carries away such property is guilty of grand theft and is punishable by imprisonment in the state prison.

SEC. 222. Section 487d of the Penal Code is amended to read:

487d. Every person who feloniously steals, takes, and carries away, or attempts to take, steal, and carry from any mining claim, tunnel, sluice, undercurrent, riffle box, or sulfurate machine, another's gold dust, amalgam, or quicksilver is guilty of grand theft and is punishable by imprisonment in the state prison.

SEC. 223. Section 489 of the Penal Code is amended to read:

489. Grand theft is punishable by imprisonment in the county jail for not more than one year or in the state prison.

SEC. 224. Section 496 of the Penal Code is amended to read:

496. 1. Every person who buys or receives any property which has been stolen or which has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds or aids in concealing, selling, or withholding any such property from the owner, knowing the property to be so stolen or obtained, is punishable by imprisonment in a state prison, or in a county jail for not more than one year; provided, that where the district attorney or the grand jury determines that such action would be in the interests of justice, the district attorney or the grand jury, as the case may be, may, if the value of the property does not exceed two hundred dollars ($200), specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in the county jail not exceeding one year.

2. Every person whose principal business is dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of such person, who buys or receives any property which has been stolen or obtained in any manner constituting theft or extortion, under such circumstances as should cause such person, agent, employee or representative to make

reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to sell or deliver it, without making such reasonable inquiry, shall be presumed to have bought or received such property knowing it to have been so stolen or obtained. This presumption may, however, be rebutted by proof.

3. When in a prosecution under this section it shall appear from the evidence that the defendant's principal business was as set forth in the preceding paragraph, that the defendant bought, received, or otherwise obtained, or concealed, withheld or aided in concealing or withholding from the owner, any property which had been stolen or obtained in any manner constituting theft or extortion, and that the defendant bought, received, obtained, concealed or withheld such property under such circumstances as should have caused him to make reasonable inquiry to ascertain that the person from whom he bought, received, or obtained such property had the legal right to sell or deliver it to him, then the burden shall be upon the defendant to show that before so buying, receiving, or otherwise obtaining such property, he made such reasonable inquiry to ascertain that the person so selling or delivering the same to him had the legal right to so sell or deliver it.

4. Any person who has been injured by a violation of paragraph 1 of this section may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit and reasonable attorney's fees.

SEC. 225. Section 496a of the Penal Code is amended to read:

496a. (a) Every person who, being a dealer in or collector of junk, metals or secondhand materials, or the agent, employee, or representative of such dealer or collector, buys or receives any wire, cable, copper, lead, solder, mercury, iron or brass which he knows or reasonably should know is ordinarily used by or ordinarily belongs to a railroad or other transportation, telephone, telegraph, gas, water or electric light company or county, city, city and county or other political subdivision of this state engaged in furnishing public utility service without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving such property, and is punishable, by imprisonment in a state prison, or in a county jail for not more than one year, or by a fine of not more than two hundred fifty dollars ($250), or by both such fine and imprisonment.

(b) Any person buying or receiving material pursuant to subdivision (a) shall obtain evidence of his identity from the seller including, but not limited to, such person's full name, signature, address, driver's license number, vehicle license number, and the license number of the vehicle delivering the material.

The record of the transaction shall include an appropriate description of the material purchased and such record shall be maintained pursuant to Section 21607 of the Business and Professions Code.

SEC. 226. Section 499c of the Penal Code is amended to read:

499c. (a) As used in this section:

(1) "Article" means any object, material, device or substance or copy thereof, including any writing, record, recording, drawing, sample, specimen, prototype, model, photograph, micro-organism, blueprint or map.

(2) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(3) "Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula or improvement which is secret and is not generally available to the public, and which gives one who uses it an advantage over competitors who do not know of or use the trade secret; and a trade secret shall be presumed to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

(4) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article.

(5) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he is interested.

(b) Every person is guilty of theft who, with intent to deprive or withhold from the owner thereof the control of a trade secret, or with an intent to appropriate a trade secret to his own use or to the use of another, does any of the following:

(1) Steals, takes, or carries away any article representing a trade secret.

(2) Fraudulently appropriates any article representing a trade secret entrusted to him.

(3) Having unlawfully obtained access to the article, without authority makes or causes to be made a copy of any article representing a trade secret.

(4) Having obtained access to the article through a relationship of trust and confidence, without authority and in breach of the obligations created by such relationship makes or causes to be made, directly from and in the presence of the article, a copy of any article representing a trade secret.

(c) Every person who promises or offers or gives, or conspires to promise or offer to give, to any present or former agent, employee or servant of another a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a trade secret owned by his present or former principal, employer or master, to any person not authorized by such owner to receive or acquire the same and every person who, being a present or former agent, employee, or servant, solicits, accepts, receives or takes a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a

trade secret owned by his present or former principal, employer or master, to any person not authorized by such owner to receive or acquire the same, is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and such imprisonment.

(d) In a prosecution for a violation of this section it shall be no defense that the person so charged, returned or intended to return the article.

SEC. 227. Section 499d of the Penal Code is amended to read:

499d. Any person who operates or takes an aircraft not his own, without the consent of the owner thereof, and with intent to either permanently or temporarily deprive the owner thereof of his title to or possession of such vehicle, whether with or without intent to steal the same, or any person who is a party or accessory to or an accomplice in any operation or unauthorized taking or stealing is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year or by a fine of not more than five thousand dollars ($5,000) or by both such fine and imprisonment.

SEC. 228. Section 500 of the Penal Code is amended to read:

500. Every person who, in the City and County of San Francisco, saves from fire or from a building endangered by fire, any property, and for two days thereafter corruptly neglects to notify the owner or Fire Marshal thereof, is punishable by imprisonment in the state prison.

SEC. 229. Section 506b of the Penal Code is amended to read:

506b. Any person who violates Section 2985.3 or 2985.4 of the Civil Code, relating to real property sales contracts, is guilty of a public offense punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 230. Section 514 of the Penal Code is amended to read:

514. Every person guilty of embezzlement is punishable in the manner prescribed for theft of property of the value or kind embezzled; and where the property embezzled is an evidence of debt or right of action, the sum due upon it or secured to be paid by it must be taken as its value; if the embezzlement or defalcation is of the public funds of the United States, or of this state, or of any county or municipality within this state, the offense is a felony, and is punishable by imprisonment in the state prison; and the person so convicted is ineligible thereafter to any office of honor, trust, or profit in this state.

SEC. 231. Section 520 of the Penal Code is amended to read:

520. Every person who extorts any money or other property from another, under circumstances not amounting to robbery, by means of force, or any threat, such as is mentioned in the preceding section, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 232. Section 524 of the Penal Code is amended to read:

524. Every person who attempts, by means of any threat, such as is specified in Section 519 of this code, to extort money or other property from another is punishable by imprisonment in the county jail not longer than one year or in the state prison or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 233. Section 529 of the Penal Code is amended to read:

529. Every person who falsely personates another in either his private or official capacity, and in such assumed character either:

1. Becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take such bail or surety;

2. Verifies, publishes, acknowledges, or proves, in the name of another person, any written instrument, with intent that the same may be recorded, delivered, or used as true; or,

3. Does any other act whereby, if done by the person falsely personated, he might, in any event, become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture, or penalty, or whereby any benefit might accrue to the party personating, or to any other person;

Is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 234. Section 533 of the Penal Code is amended to read:

533. Every person who, after once selling, bartering, or disposing of any tract of land or town lot, or after executing any bond or agreement for the sale of any land or town lot, again willfully and with intent to defraud previous or subsequent purchasers, sells, barters, or disposes of the same tract of land or town lot, or any part thereof, or willfully and with intent to defraud previous or subsequent purchasers, executes any bond or agreement to sell, barter, or dispose of the same land or lot, or any part thereof, to any other person for a valuable consideration, is punishable by imprisonment in the state prison.

SEC. 235. Section 535 of the Penal Code is amended to read:

535. Every person who obtains any money or property from another, or obtains the signature of another to any written instrument, the false making of which would be forgery, by means of any false or fraudulent sale of property or pretended property, by auction, or by any of the practices known as mock auctions, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment; and, in addition thereto, forfeits any license he may hold as auctioneer, and is forever disqualified from receiving a license to act as auctioneer within this state.

SEC. 236. Section 540 of the Penal Code is amended to read:

540. Every person, who steals or, without authority to do so,

alters, forges, or counterfeits any coupon, stamp, token, certificate, or other ration evidence or document issued by the United States government or any agency thereof in furtherance of its rationing program, or forges, or alters, without authority, any ration check shall be punishable by imprisonment in the state prison, or in the county jail not exceeding six months, or by fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 237. Section 541 of the Penal Code is amended to read:

541. Every person who sells, gives, or otherwise transfers to another any altered, forged, or counterfeited coupon, stamp, token, certificate, ration check, or other ration evidence or document knowing the same to be altered, forged, or counterfeited shall be punishable by imprisonment in the state prison, or in the county jail not exceeding six months, or by fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 238. Section 542 of the Penal Code is amended to read:

542. Any person who buys, or otherwise knowingly and unlawfully acquires any altered, forged, or counterfeited coupon, stamp, token, certificate, ration check, or other ration evidence or document knowing the same to be altered, forged, or counterfeited shall be punishable by imprisonment in the state prison, or in the county jail not exceeding six months, or by fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 239. Section 543 of the Penal Code is amended to read:

543. Any person who knowingly either buys, or sells, or otherwise unlawfully acquires or transfers for a valuable consideration any coupon, stamp, token, certificate, ration check or other ration evidence or document issued by the United States government or any agency thereof or any altered, forged, or counterfeited coupon, stamp, token, certificate, ration check, or other ration evidence or document, shall be punishable by imprisonment in the state prison, or in the county jail not exceeding six months, or by fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 240. Section 548 of the Penal Code is amended to read:

548. Every person who willfully burns or in any other manner injures, destroys, secretes, abandons, or disposes of any property which at the time is insured against loss or damage by fire, or theft, or embezzlement, or any casualty with intent to defraud or prejudice the insurer, whether the same be the property or in the possession of such person or any other person, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 241. Section 560 of the Penal Code is amended to read:

560. Any bailee, as defined in Section 7102 of the Uniform Commercial Code, who issues or aids in issuing a document of title, or any person who secures the issue by a bailee of a document of title, or any person who negotiates or transfers for value a document of title knowing that the goods for which such document is issued have not been actually received by such bailee or are not under his control

at the time of issuing such receipt shall be guilty of a crime and upon conviction shall be punished for each offense by imprisonment in the state prison or by a fine not exceeding five thousand dollars ($5,000) or by both.

SEC. 242. Section 560.4 of the Penal Code is amended to read:

560.4. Any bailee, as defined in Section 7102 of the Uniform Commercial Code, who issues or aids in issuing a duplicate or additional negotiable document of title for goods knowing that a former negotiable document of title for the same goods or any part of them is outstanding and uncanceled without plainly placing upon the face thereof the word "duplicate," except in cases of bills in a set and documents issued as substitutes for lost, stolen or destroyed documents, shall be guilty of a crime and upon conviction shall be punished for each offense by imprisonment in the state prison or by a fine not exceeding five thousand dollars ($5,000) or by both.

SEC. 243. Section 577 of the Penal Code is amended to read:

577. Every person, being the master, owner or agent of any vessel, or officer or agent of any railroad, express or transportation company, or otherwise being or representing any carrier, who delivers any bill of lading, receipt or other voucher, by which it appears that any merchandise of any description has been shipped on board any vessel, or delivered to any railroad, express or transportation company or other carrier, unless the same has been so shipped or delivered, and is at the time actually under the control of such carrier or the master, owner or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher, is punishable by imprisonment in the state prison, or by a fine not exceeding one thousand dollars ($1,000), or both.

SEC. 244. Section 578 of the Penal Code is amended to read:

578. Every person carrying on the business of a warehouseman, wharfinger, or other depositary of property, who issues any receipt, bill of lading, or other voucher for any merchandise of any description, which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument, whether such instrument is issued to a person as being the owner of such merchandise or as security for any indebtedness, is punishable by imprisonment in the state prison, or by a fine not exceeding one thousand dollars ($1,000), or both.

SEC. 245. Section 580 of the Penal Code is amended to read:

580. Every person mentioned in this chapter, who issues any second or duplicate receipt or voucher, of a kind specified therein, at a time while any former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "Duplicate," in a plain and legible manner, is punishable by imprisonment in the state prison, or by a fine not exceeding one thousand dollars ($1,000), or both.

SEC. 246. Section 581 of the Penal Code is amended to read:

581. Every person mentioned in this chapter, who sells, hypothecates, or pledges any merchandise for which any bill of lading, receipt, or voucher has been issued by him, without the consent in writing thereto of the person holding such bill, receipt, or voucher, is punishable by imprisonment in the state prison, or by a fine not exceeding one thousand dollars ($1,000), or both.

SEC. 247. Section 587 of the Penal Code is amended to read:

587. Every person who maliciously, either:

1. Removes, displaces, injures, or destroys any part of any railroad, whether for steam or horse cars, or any track of any railroad, or any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof, attached to or connnected with any railroad; or,

2. Places any obstruction upon the rails or track of any railroad, or of any switch, branch, branchway, or turnout connected with any railroad;

Is punishable by imprisonment in the state prison, or in the county jail not exceeding one year.

SEC. 248. Section 591 of the Penal Code is amended to read:

591. A person who unlawfully and maliciously takes down, removes, injures or obstructs any line of telegraph or telephone, or any other line used to conduct electricity, or any part thereof, or appurtenances or apparatus connected therewith, or severs any wire thereof, or makes any unauthorized connection with any line, other than a telegraph or telephone line, used to conduct electricity, or any part thereof, or appurtenances or apparatus connected therewith, is punishable by imprisonment in the state prison, or by a fine not exceeding five hundred dollars ($500), or imprisonment in the county jail not exceeding one year.

SEC. 248.5. Section 591 of the Penal Code is amended to read:

591. A person who unlawfully and maliciously takes down, removes, injures or obstructs any line of telegraph or telephone, or any other line used to conduct electricity, or any part thereof, or appurtenances or apparatus connected therewith, or severs any wire thereof, or makes any unauthorized connection with any line, other than a telegraph or telephone line, used to conduct electricity, or any part thereof, or appurtenances or apparatus connected therewith, is punishable by imprisonment in the state prison, or by a fine not exceeding one thousand dollars ($1,000), or imprisonment in the county jail not exceeding one year.

SEC. 249. Section 593 of the Penal Code is amended to read:

593. Every person who unlawfully and maliciously takes down, removes, injures, interferes with, or obstructs any line erected or maintained by proper authority for the purpose of transmitting electricity for light, heat, or power, or any part thereof, or any insulator or cross-arm, appurtenance or apparatus connected therewith, or severs or in any way interferes with any wire, cable, or current thereof, is punishable by imprisonment in the state prison, or by fine not exceeding five hundred dollars ($500), or

imprisonment in the county jail not exceeding one year.

SEC. 250. Section 597 of the Penal Code is amended to read:

597. (a) Every person who maliciously maims, wounds, tortures, or mutilates a living animal which is the property of another, or maliciously kills an animal which is the property of another, is guilty of an offense punishable by imprisonment in the state prison, or in a county jail for not more than one year.

(b) Except as otherwise provided in subdivision (a), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink or shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owned or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the same, or in any manner abuses any animal, or fails to provide the same with proper food, drink, shelter or protection from the weather, or who drives, rides or otherwise uses the same when unfit for labor, is for every such offense, guilty of a misdemeanor.

SEC. 251. Section 606 of the Penal Code is amended to read:

606. Every person who willfully and intentionally breaks down, pulls down, or otherwise destroys or injures any place of confinement, is punishable by fine not exceeding ten thousand dollars ($10,000), and by imprisonment in the state prison, except that where the damages or injury to any city, city and county or county place of confinement is determined to be two hundred dollars ($200) or less, he is guilty of a misdemeanor.

SEC. 252. Section 610 of the Penal Code is amended to read:

610. Every person who unlawfully masks, alters, or removes any light or signal, or willfully exhibits any light or signal, with intent to bring any vessel into danger, is punishable by imprisonment in the state prison.

SEC. 253. Section 617 of the Penal Code is amended to read:

617. Every person who maliciously mutilates, tears, defaces, obliterates, or destroys any written instrument, the property of another, the false making of which would be forgery, is punishable by imprisonment in the state prison.

SEC. 254. Section 620 of the Penal Code is amended to read:

620. Every person who willfully alters the purport, effect, or meaning of a telegraphic or telephonic message to the injury of another, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 255. Section 625b of the Penal Code is amended to read:

625b. (a) Every person who willfully injures or tampers with any aircraft or the contents or parts thereof, or removes any part of or from an aircraft without the consent of the owner, and every person

who, with intent to commit any malicious mischief, injury or other crime, climbs into or upon an aircraft or attempts to manipulate any of the controls, starting mechanism, brakes or other mechanism or device of an aircraft while it is at rest and unattended or who sets in motion any aircraft while it is at rest and unattended, is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

(b) Every person who willfully and maliciously damages, injures, or destroys any aircraft, or the contents or any part thereof, in such a manner as to render the aircraft unsafe for those flight operations for which it is designed and equipped is punishable by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 256. Section 626.9 of the Penal Code is amended to read:

626.9. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer, a member of the military forces of this state or the United States who is engaged in the performance of his duties, or a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, who brings or possesses a firearm upon the grounds of any public school, including the University of California and the state university and colleges or within any public school, including the University of California and the state colleges, unless it is with the permission of the school authorities, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine, or by imprisonment in the state prison.

SEC. 257. Section 631 of the Penal Code is amended to read:

631. (a) Any person who, by means of any machine, instrument, or contrivance, or in any other manner, intentionally taps, or makes any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any telegraph or telephone wire, line, cable, or instrument, including the wire, line, cable, or instrument of any internal telephonic communication system, or who willfully and without the consent of all parties to the communication, or in any unauthorized manner, reads, or attempts to read, or to learn the contents or meaning of any message, report, or communication while the same is in transit or passing over any such wire, line, or cable, or is being sent from, or received at any place within this state; or who uses, or attempts to use, in any manner, or for any purpose, or to communicate in any way, any

information so obtained, or who aids, agrees with, employs, or conspires with any person or persons to unlawfully do, or permit, or cause to be done any of the acts or things mentioned above in this section, is punishable by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both such fine and imprisonment in the county jail or in the state prison. If such person has previously been convicted of a violation of this section or Section 632 or 636, he is punishable by fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both such fine and imprisonment in the county jail or in the state prison.

(b) This section shall not apply (1) to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the acts otherwise prohibited herein are for the purpose of construction, maintenance, conduct or operation of the services and facilities of such public utility, or (2) to the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of such a public utility, or (3) to any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(c) Except as proof in an action or prosecution for violation of this section, no evidence obtained in violation of this section shall be admissible in any judicial, administrative, legislative or other proceeding.

SEC. 258. Section 632 of the Penal Code is amended to read:

632. (a) Every person who, intentionally and without the consent of all parties to a confidential communication, by means of any electronic amplifying or recording device, eavesdrops upon or records such confidential communication, whether such communication is carried on among such parties in the presence of one another or by means of a telegraph, telephone or other device, except a radio, shall be punishable by fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both such fine and imprisonment in the county jail or in the state prison. If such person has previously been convicted of a violation of this section or Section 631 or 636, he is punishable by fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both such fine and imprisonment in the county jail or in the state prison.

(b) The term "person" includes an individual, business association, partnership, corporation, or other legal entity, and an individual acting or purporting to act for or on behalf of any government or subdivision thereof, whether federal, state, or local, but excludes an individual known by all parties to a confidential

communication to be overhearing or recording such communication.

(c) The term "confidential communication" includes any communication carried on in such circumstances as may reasonably indicate that any party to such communication desires it to be confined to such parties, but excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

(d) Except as proof in an action or prosecution for violation of this section, no evidence obtained as a result of eavesdropping upon or recording a confidential communication in violation of this section shall be admissible in any judicial, administrative, legislative or other proceeding.

(e) This section shall not apply (1) to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the acts otherwise prohibited herein are for the purpose of construction, maintenance, conduct or operation of the services and facilities of such public utility, or (2) to the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of such a public utility, or (3) to any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(f) This section does not apply to the use of hearing aids and similar devices, by persons afflicted with impaired hearing, for the purpose of overcoming the impairment to permit the hearing of sounds ordinarily audible to the human ear.

SEC. 259. Section 634 of the Penal Code is amended to read:

634. Any person who trespasses on property for the purpose of committing any act, or attempting to commit any act, in violation of Section 631, 632 or 636 shall be punishable by fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both such fine and imprisonment in the county jail or in the state prison. If such person has previously been convicted of a violation of this section or Section 631, 632 or 636, he is punishable by fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both such fine and imprisonment in the county jail or in the state prison.

SEC. 260. Section 635 of the Penal Code is amended to read:

635. (a) Every person who manufactures, assembles, sells, offers for sale, advertises for sale, possesses, transports, imports, or furnishes to another any device which is primarily or exclusively designed or intended for eavesdropping upon the communication of another is punishable by fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail not exceeding one

year, or by imprisonment in the state prison, or by both such fine and imprisonment in the county jail or in the state prison. If such person has previously been convicted of a violation of this section, he is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both such fine and imprisonment in the county jail or in the state prison.

(b) This section shall not apply to

(1) An act otherwise prohibited herein when performed by (i) a communication utility or an officer, employee or agent thereof for the purpose of construction, maintenance, conduct or operation of, or otherwise incident to the use of, the services or facilities of the utility, or (ii) a state, county or municipal law enforcement agency or an agency of the federal government, or (iii) a person engaged in selling such devices for use by, or resale to, agencies of a foreign government under terms approved by the federal government, communication utilities, state, county or municipal law enforcement agencies, or agencies of the federal government, or

(2) Possession by a subscriber to communication utility service of such a device furnished by such utility pursuant to its tariffs.

SEC. 261. Section 637 of the Penal Code is amended to read:

637. Every person not a party to a telegraphic or telephonic communication who willfully discloses the contents of a telegraphic or telephonic message, or any part thereof, addressed to another person, without the permission of such person, unless directed so to do by the lawful order of a court, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both fine and imprisonment.

SEC. 261.5. Section 644 of the Penal Code is repealed.

SEC. 262. Section 647a of the Penal Code is amended to read:

647a. Every person who annoys or molests any child under the age of 18 is a vagrant and is punishable upon first conviction by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail for not exceeding six months or by both such fine and imprisonment and is punishable upon the second and each subsequent conviction or upon the first conviction after a previous conviction under Section 288 of this code by imprisonment in the state prison.

SEC. 263. Section 653f of the Penal Code is amended to read:

653f. Every person who solicits another to offer or accept or join in the offer or acceptance of a bribe, or to commit or join in the commission of murder, robbery, burglary, grand theft, receiving stolen property, extortion, rape by force and violence, perjury, subornation of perjury, forgery, kidnapping, or assault with a deadly weapon or instrument or by means of force likely to produce great bodily injury, is punishable by imprisonment in the county jail not more than one year or in the state prison, or by fine of not more than five thousand dollars ($5,000), or by both such fine and

imprisonment. Such offense must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances.

SEC. 264. Section 654 of the Penal Code is amended to read:

654. An act or omission which is made punishable in different ways by different provisions of this code may be punished under either of such provisions, but in no case can it be punished under more than one; an acquittal or conviction and sentence under either one bars a prosecution for the same act or omission under any other. In the cases specified in Sections 648 and 668, the punishments therein prescribed must be substituted for those prescribed for a first offense, if the previous conviction is charged in the indictment and found by the jury.

SEC. 265. Section 664 of the Penal Code is amended to read:

664. Every person who attempts to commit any crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempts as follows:

1. If the offense so attempted is punishable by imprisonment in the state prison, or by imprisonment in a county jail, the person guilty of such attempt is punishable by imprisonment in the state prison, or in a county jail, as the case may be, for a term not exceeding one-half the term of imprisonment prescribed upon a conviction of the offense so attempted; provided, however, that if the crime attempted is one in which the maximum sentence is life imprisonment or death the person guilty of such attempt shall be punishable by imprisonment in the state prison for a term of five, six or seven years.

2. If the offense so attempted is punishable by a fine, the offender convicted of such attempt is punishable by a fine not exceeding one-half the largest fine which may be imposed upon a conviction of the offense so attempted.

SEC. 266. Section 666 of the Penal Code is amended to read:

666. Every person who, having been convicted of petit larceny or petit theft and having served a term therefor in any penal institution or having been imprisoned therein as a condition of probation for such offense, is subsequently convicted of petit theft, then the person convicted of such subsequent offense is punishable by imprisonment in the county jail not exceeding one year, or in the state prison.

SEC. 267. Section 667 of the Penal Code is repealed.

SEC. 268. Section 667.5 is added to the Penal Code, to read:

667.5. Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where the new offense is one of the violent felonies specified in subdivision (c) and the defendant is sentenced to prison therefor, in addition and consecutive to any other prison terms therefor, the trial court shall impose a three-year term for each prior separate prison term served by the defendant where the prior was one of the violent felonies specified in subdivision (c); provided that no additional term shall be imposed under this subdivision in any case

in which the defendant has remained free of prison custody and free of felony conviction for 10 years immediately preceding the filing of an accusatory pleading that results in such felony conviction. However, if the court determines that there are circumstances in mitigation of the additional punishment prescribed, the court may strike the additional punishment, provided that reasons therefor are stated on the record.

(b) Except where subdivision (a) applies, when the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison term therefor, the trial court shall, unless specifically not ordered by the court with reasons therefor stated on the record, impose a one-year term for each prior separate prison term served for any felony; provided that no additional term shall be imposed under this subdivision in any case in which the defendant has remained free of prison custody for five years immediately preceding the filing of an accusatory pleading that results in a new felony conviction. For the purposes of this subdivision the defendant shall be deemed to remain in prison custody for an offense until the official discharge from such custody or until release on parole whichever first occurs including any time during which the defendant remains subject to arrest for escape from such custody.

(c) For the purpose of this section "violent felony" shall mean any of the following crimes for which the defendant served a separate prison term:

(1) Murder or voluntary manslaughter

(2) Mayhem

(3) Forceable rape as defined in subdivisions (2), (3), and (4) of Section 261

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

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

(6) Kidnapping as defined in Section 209

(7) Lewd acts on a child under 14 as defined in Section 288

(8) Any other felony in which the defendant inflicts great bodily injury on person other than accomplices has been alleged and proved as provided for in Section 12022.7 if convicted after the effective date of this section or as specified prior to the effective date of this section in Sections 213, 264, and 461.

The Legislature finds and declares that those specified crimes merit special consideration when imposing a sentence to display society's condemnation for such extraordinary crimes of violence against the person.

(d) The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve

a prior separate prison term which was at least one year in duration.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which if committed in California is punishable by imprisonment in state prison provided the defendants served one year or more in prison for such offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law provided the defendants served one year or more in prison for such offense in the other jurisdiction.

(g) A continuous completed period of prison incarceration imposed for the particular offense alone or in combination with sentences for other counts or sentences to be served concurrently or consecutively therewith including any reimprisonment on revocation of parole or new commitment for escape from such incarceration shall be deemed a single prior separate term for the purposes of this section.

(h) Serving a prison term includes time spent in any state prison or federal penal institution as punishment for commission of an offense including time spent in a hospital or other institution or facility credited as service of prison time in the jurisdiction of such service.

SEC. 269. Section 668 of the Penal Code is amended to read:

668. Every person who has been convicted in any other state, government, country, or jurisdiction of an offense for which, if committed within this state, such person could have been punished under the laws of this state by imprisonment in a state prison, is punishable for any subsequent crime committed within this state in the manner prescribed by law and to the same extent as if such prior conviction had taken place in a court of this state.

SEC. 270. Section 671 of the Penal Code is repealed.

SEC. 271. Section 1168 of the Penal Code is amended to read:

1168. (a) Every male convicted of a public offense, for which a determinate period of imprisonment in any state prison is now prescribed by law shall, unless such convicted person be placed on probation, a new trial granted, or the imposing of sentence suspended, be sentenced pursuant to Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2. For any male not sentenced under such provision, but who is sentenced to be imprisoned in the state prison the court in imposing the sentence shall not fix the term or duration of the period of imprisonment.

(b) Every female convicted of a public offense, for which a determinate period of imprisonment in any state prison is now prescribed by law shall, unless such convicted female is placed on probation, a new trial granted, or the imposing of sentence suspended, be sentenced pursuant to Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2. For any female not sentenced under such provisions, but who is sentenced to detention at the California Institution for Women the court in imposing the sentence shall not

fix the term or duration of the period of imprisonment.

SEC. 272.5. Section 1168a of the Penal Code is repealed.

SEC. 273. Chapter 4.5 (commencing with Section 1170) is added to Title 7 of Part 2 of the Penal Code, to read:

CHAPTER 4.5. TRIAL COURT SENTENCING

Article 1. Initial Sentencing

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the trial court with specified discretion.

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three or four years; three, four or five years; five, six or seven years, or any other specification of three time periods, the trial court shall sentence the defendant to one of the terms of imprisonment specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation or the suspension of imposition or execution of sentence. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The trial court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other prison sentence which it is required by law to impose as an additional prison sentence. Nothing in this article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life.

(b) When a judgment of imprisonment is entered the court shall order the middle of the three possible terms of imprisonment, unless there are circumstances in aggravation or mitigation of the crime. Such circumstances shall only be considered if set forth in a motion made prior to or at the time set for sentencing. The upper term may be imposed only when the circumstances alleged to be in aggravation of the crime are found to be true by the trial judge upon the evidence introduced at the hearing on the motion and any evidence previously heard by the judge at the trial, and factual findings and reasons in support thereof are set forth on the record at the time of sentencing. In no case shall the court impose an upper term upon a finding of any fact used to enhance the sentence under

Section 667.5, 1170.1a, 12022, 12022.5, 12022.6, or 12022.7. In no event shall any fact be used twice to determine, aggravate, or enhance a sentence. The lower term may be imposed only when the circumstances alleged to be in mitigation of the crime are found to be true by the trial judge upon the evidence introduced at the hearing on the motion and any evidence previously heard by the judge at the trial, and factual findings and reasons in support thereof are set forth on the record at the time of sentencing.

(c) When a defendant subject to this section has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Director of Corrections, the sentencing court may, at any time upon the recommendation of the Director of Corrections, the Community Release Board, or the court may, within 120 days of the date of commitment, on its own motion recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(d) Any sentence imposed under this article shall be subject to the provisions of subdivision (a) of Section 3000 and any other applicable provisions of law.

1170.1. The trial judge shall state the reasons for his sentence choice on the record at the time of sentencing. The trial judge shall also inform the defendant that after the expiration of his sentence he shall be on parole for a period of up to one year unless for good cause parole is waived as provided in Section 3000.

1170.1a. (a) Except as provided in subdivisions (b) and (c) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same judge or by different judges, and the second or other subsequent judgment imposes a consecutive term of imprisonment under Sections 669 and 1170, the aggregate term of imprisonment for all such convictions shall be the greatest term of imprisonment imposed by the judge for any of the crimes, including any enhancements which are imposed pursuant to Sections 12022, 12022.5, 12022.6, and 12022.7 plus one-third of the middle term of imprisonment prescribed for each other felony convictions for which a consecutive term of imprisonment is imposed without such enhancements. The court shall not impose additional terms as described in Section 667.5, 12022, 12022.5, 12022.6, or 12022.7 to enhance the one-third of the middle term sentence for such consecutive terms of imprisonment.

(b) In the case of any person convicted of one felony which is committed while such person is confined in a state prison and the law either requires the sentences to be served consecutively or the judge

imposes a consecutive sentence, the aggregate term of imprisonment for all convictions which such person is required to serve consecutively shall be the remainder of the term for which he was confined plus the term of imprisonment specified by the judge for the crime committed while confined in a state prison. If such person is convicted of more than one such felony in the same proceeding, and the law either requires each sentence to be served consecutively or the judge imposes a consecutive sentence, the aggregate term for all convictions which the person is required to serve consecutively shall be the remainder of the term for which he was confined plus the greatest term of imprisonment specified by the judge for any of such felonies and plus one-third of the middle term of imprisonment prescribed for each other such felony conviction. The provisions of this subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.

(c) When the court imposes a prison sentence for a felony pursuant to Section 1170 the court shall also impose the additional sentences provided in this code for being armed with a deadly weapon or use of a firearm charged and proved in the case, for excessive taking or damage, for the infliction of great bodily injury charged and proved in the case, for each prior prison term charged and proved in the case as provided for in Section 667.5 and for any other sentence which the court determines in its discretion or as required by law shall run consecutive to the sentence imposed under Section 1170 except as provided in subdivisions (d), (e), and (f). However, if the court determines that there are circumstances in mitigation of the punishment prescribed, the court may strike the additional punishment, provided that reasons therefor are stated on the record. In considering the imposition of such additional sentences, the court shall apply the sentencing rules of the Judicial Council.

(d) Section 12022 or Section 12022.5 shall not apply where arming or use is an element of the crime. Section 12022.7 shall not apply where great bodily harm is an element of the offense or where the crime is assault by any means of force likely to produce great bodily injury. No more than one of Section 12022, 12022.5, or 12022.7 shall apply to the sentence for any single offense. A prisoner who is convicted of committing a felony, as provided in subdivision (b) and who is subject to this subdivision (d), shall be subject to the same term of imprisonment as any other person committing such felony except that the sentence shall be served consecutively and in addition to the remainder of the prisoner's current term of imprisonment;

(e) In no case shall the aggregate for enhancement for both prior terms as defined in subdivision (b) of Section 667.5 and consecutive sentences as defined in subdivision (a) of Section 1170.1a exceed five years.

(f) In no case shall the term of imprisonment exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 unless the defendant stands convicted of a felony described in subdivision (c) of Section 667.5 or an allegation of being armed with a deadly weapon as defined in Section 12022, the use of a firearm as defined in Section 12022.5, or the infliction of great bodily injury as defined in Section 12022.7 which had been charged in the indictment or information and found to be true by the jury upon jury trial, or found to be true by the court upon court trial, or admitted to by the defendant.

1170.1b. In all cases the Community Release Board shall, not later than one year after the commencement of the term of imprisonment, review the sentence and shall by motion recommend that the court recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not been previously sentenced if the board determines the sentence is disparate. The review under this section shall apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

1170.2. (a) In the case of any inmate sentenced for a felony to state prison prior to the effective date of this section, who would have been sentenced under Section 1170 if sentenced after the effective date of this section, the Community Release Board shall determine what the length of time of imprisonment would have been under Section 1170 without consideration of good-time credit and utilizing the middle term of the offense bearing the longest terms of imprisonment of which the prisoner was convicted aggregated by any additional terms which were imposed by the court at the time of sentencing for such felony or aggravation.

(b) When the calculation required under subdivision (a) is less than the time to be served prior to a parole date set prior to the effective date of this section by the Adult Authority, the Community Release Board shall reset the prisoner's parole date, subject to subdivision (d) on the date calculated under subdivision (a) unless a majority of all of the members of the Community Release Board after reviewing the prisoner's file, determine that due to the number of crimes the prisoner was convicted of, or due to the number of prior convictions the prisoner has been convicted of, or due to the fact that the prisoner was armed with a deadly weapon when the crime was committed, or used a deadly weapon during the commission of the crime, or inflicted or attempted to inflict great bodily injury on the victim of the crime, the prisoner should serve a term longer than that calculated in subdivision (a), in which event the prisoner shall be entitled to a hearing, as provided for in Section 3041.5. At such hearing the prisoner shall be entitled to be represented by legal counsel, and a release date shall be set within 90 days of the effective date of this section and the prisoner shall be informed in writing of

the extraordinary factors specifically considered determinative and on what basis the release date has been calculated. In fixing a term under this section the board shall be guided by the term which reasonably could be imposed on a person convicted after the effective date of this act of a similar crime under similar circumstances specifically in those cases which involve persons convicted of one or more of the crimes specified in subdivision (c) of Section 667.5. In fixing a term in any case involving a prisoner convicted of one or more of the crimes specified in subdivision (c) of Section 667.5, the board shall be guided by the following finding and declaration hereby made by the Legislature: that the necessity to protect the public from repetition of such extraordinary crimes of violence against the person is the paramount consideration.

(c) When a parole date was not set by the Adult Authority for an inmate sentenced prior to the effective date of this section who would have been sentenced under Section 1170 if sentenced after the effective date of this section, the Community Release Board shall set the prisoner's parole date, subject to subdivision (d), on the date calculated under subdivision (a) unless a majority of all of the members of the Community Release Board after reviewing the prisoner's file, determine that due to the number of crimes the prisoner was convicted of, or due to the number of prior convictions the prisoner has been convicted of, or due to the fact that the prisoner was armed with a deadly weapon when the crime was committed, or used a deadly weapon during the commission of the crime, or inflicted or attempted to inflict great bodily injury on the victim of the crime, the prisoner should serve a term longer than that calculated in subdivision (a) in which event the prisoner shall be entitled to a hearing, as provided for in Section 3041.5. At such hearing the prisoner shall be entitled to be represented by legal counsel, and a release date shall be set within 90 days of the effective date of this section and the prisoner shall be informed in writing of the extraordinary factors specifically considered determinative and on what basis the release date has been calculated. In fixing a term under this section the board shall be guided by the term which reasonably could be imposed on a person convicted after the effective date of this act of a similar crime under similar circumstances specifically in those cases which involve persons convicted of one or more of the crimes specified in subdivision (c) of Section 667.5. In fixing a term in any case involving a prisoner convicted of one or more of the crimes specified in subdivision (c) of Section 667.5, the board shall be guided by the following finding and declaration hereby made by the Legislature: that the necessity to protect the public from repetition of such extraordinary crimes of violence against the person is the paramount consideration.

(d) In the case of any prisoner sentenced for a felony to state prison prior to the effective date of this act who would have been sentenced under Section 1170 if sentenced after the effective date of this section, the good behavior and participation provisions of Article

2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply from the effective date of this section and thereafter.

(e) In the case of any inmate sentenced for a felony to state prison prior to the effective date of this section, who would have been sentenced under Section 1168 after the effective date of this section, the Community Release Board shall provide for release from prison as provided for by this code.

(f) In the case of any inmate sentenced for a felony to state prison prior to the effective date of this section, the length of parole conditions therein, revocation thereof, and other incidents thereto shall be the same as if the prisoner had been sentenced after the effective date of this section.

(g) Nothing in this section shall be deemed to keep an inmate in the custody of the Department of Corrections for a period of time longer than he would have been kept in its custody under the provisions of law applicable to him prior to the effective date of this section.

(h) Nothing in this chapter shall affect an inmate's eligibility for parole under Article 3 (commencing with Section 3040) of Chapter 8 of Title I of Part 3 of this code, for a period of parole as specified in subdivision (b) of Section 3000.

1170.3. The Judicial Council shall seek to promote uniformity in sentencing under Section 1170, by the adoption of rules providing criteria for the consideration of the trial judge at the time of sentencing regarding the court's decision to:

(a) Grant or deny probation.

(b) Impose the lower or upper prison term.

(c) Impose concurrent or consecutive sentences.

(d) Consider an additional sentence for prior prison terms.

(e) Impose an additional sentence for being armed with a deadly weapon, using a firearm, an excessive taking or damage, or the infliction of great bodily injury.

1170.4. The Judicial Council shall collect, analyze, and quarterly distribute and publish in the official reporter relevant information to trial judges relating to sentencing practices in this state and other jurisdictions. Such information shall be taken into consideration by the Judicial Council in the adoption of rules pursuant to Section 1170.3.

1170.5. The Judicial Council shall conduct annual sentencing institutes for trial court judges pursuant to Section 68551 of the Government Code, toward the end of assisting the judge in the imposition of appropriate sentences.

Section 1170.6. The Judicial Council shall continually study and review the statutory sentences and the operation of existing criminal penalties and shall report to the Governor and to the appropriate policy committees of the Legislature its analysis regarding this subject matter and as to all proposed legislation affecting felony sentences. Such review and analysis shall take into consideration:

(a) The nature of the offense with the degree of danger the

offense presents to society.

(b) The penalty of the offense as compared to penalties for offenses that are in their nature more serious.

(c) The penalty of the offense as compared to penalties for the same offense in other jurisdictions.

(d) The penalty of the offense as compared to recommendations for sentencing suggested by national commissions and other learned bodies.

SEC. 274. Section 1202b of the Penal Code is repealed.

SEC. 274.5. Section 1319.4 of the Penal Code is amended to read:

1319.4. Every person who is charged with the commission of a felony who is released on his own recognizance pursuant to this article who willfully fails to appear as he has agreed, is guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the state prison, or in the county jail for not more than one year, or by both such fine and imprisonment.

SEC. 275. Section 2042 of the Penal Code is amended to read:

2042. Every person confined in the California Vocational Institution who escapes or attempts to escape therefrom is guilty of a crime and shall be imprisoned in a state prison, or in the county jail for not exceeding one year.

SEC. 276. Article 2.5 (commencing with Section 2930) is added to Chapter 7 of Title 1 of Part 3 of the Penal Code, to read:

Article 2.5. Credit on Term of Imprisonment

2930. (a) The Department of Corrections shall inform every prisoner sentenced under Section 1170, not later than 14 days after the commencement of the term of imprisonment of all applicable prison rules and regulations including the possibility of receiving a one-third reduction of the sentence for good behavior and participation. Within 14 days of the prisoner's arrival at the institution to which the prisoner is ultimately assigned by the Department of Corrections, the prisoner shall be informed of the range of programs offered by that institution and their availability at that institution. The prisoner's central file shall reflect compliance with the provisions of this section not later than 90 days after commencement of term.

(b) The department shall, within 90 days of the effective date of this section, inform every prisoner who would have been sentenced under Section 1170 if sentenced after the effective date of this act of all applicable prison rules and regulations, of the range of programs offered and their availability, and the possibility of receiving a reduction for good behavior and participation of one-third of the prisoner's remaining sentence after the effective date of this section. The inmate's central file shall reflect compliance with the provisions of this section.

2931. (a) In any case in which an inmate was sentenced to the

state prison pursuant to Section 1170, or if he would have been sentenced under Section 1170 if sentenced after the effective date of Section 1170, the Department of Corrections shall have the authority to reduce the term prescribed under such section by one-third for good behavior and participation consistent with subdivision (d) of Section 1170.2. A document shall be signed by a prison official and the inmate, at the time of compliance with Section 2930, outlining the conditions which the inmate shall meet to receive the credit. The conditions specified in such document may be modified upon any of the following:

(1) Mutual consent of the prisoner and the Department of Corrections.

(2) The transfer of the inmate from one institution to another.

(3) The department's determination of the prisoner's lack of adaptability or success in a specific program or assignment. In such case the inmate shall be entitled to a hearing regarding the department's decision.

(b) Total possible good behavior and participation credit shall result in a four-months reduction for each eight months served in prison. Three months of this four-month reduction shall be based upon forbearance from any or all of the following activities:

(1) Assault with a weapon; or escape.

(2) Physically assaultive behavior; possession of a weapon without permission; possession of controlled substances without prescription; attempt to escape; or urging others, with the intent to cause a riot, to commit acts of force or violence, at a time and place under circumstances which produce a clear and present and immediate danger of a riot which results in acts of force or violence.

(3) Intentional destruction of state property valued in excess of fifty dollars ($50); falsification of a significant record or document; possession of escape tools without permission; or manufacture or sale of intoxicants. Activities specified in paragraph (1) may result in a maximum denial of good behavior credit of 45 days for each such prohibited activity. Activities specified in paragraph (2) may result in a maximum denial of good behavior credit of 30 days for each such prohibited activity. Activities specified in paragraph (3) may result in a maximum denial of good behavior credit of 15 days for each such prohibited activity. Nothing in this section shall prevent the Department of Corrections from seeking criminal prosecution for violations of law.

(c) One of the four months reduction shall be based solely upon participation in work, educational, vocational, therapeutic or other prison activities as specified in such document. Failure to succeed after demonstrating a reasonable effort in the specified activity shall not result in loss of participation credit. Failure to participate in the specified activities can result in a maximum loss of credit of 30 days. However, those confined either by choice or due to behavior problems so as to be unable to participate in any activities, in no instance shall be denied the credit because of physical inability to participate.

2932. (a) Denial of good behavior and participation credit is limited to whichever eight-month time period specified in subdivision (b) during which the misbehavior took place. Good behavior and participation credit shall be deemed to be earned in cases where the department fails to adhere to the time limitations of this section and the following procedure. Any procedure not provided for by this section, but necessary to carry out the purposes of this section, shall be those procedures provided for by the Department of Corrections for serious disciplinary infractions if those procedures are not in conflict with this section.

(1) The Department of Corrections shall, using reasonable diligence to investigate, notify the prisoner in writing within five days of the discovery of information leading to charges that may result in a possible denial of good behavior or participation credit, but not later than 30 days after the alleged misbehavior took place with the exception of those extraordinary cases where there is a discovery of new evidence which was not reasonably discoverable within the 30 days or any sooner than it was discovered, in which case the department shall have the burden of proof as to why the evidence was not reasonably discoverable within 30 days or any sooner than it was discovered; notify the inmate as soon as possible but in no case later than 90 days after the alleged misbehavior took place. The written notice shall include the specific charge, the date, the time, the place that the alleged misbehavior took place, the evidence relied upon, a written explanation of the procedures that will be employed at the proceedings and the prisoner's rights at such hearing; and in the case where the prisoner has been notified more than 30 days after the alleged misbehavior why the evidence was not reasonably discoverable within the 30 days or any sooner than it was discovered. Such hearing shall be conducted by an individual who shall be independent of the case and shall take place within 10 days of such written notice; unless for good cause shown by the Department of Corrections that extraordinary circumstances prevented the hearing from being conducted within 10 days and the prisoner is not prejudiced by the delay the Department of Corrections shall notify the prisoner in writing specifying the extraordinary circumstances and shall conduct the hearing as soon as possible but in no case later than 30 days after the initial written notice of possible good behavior or participation denial.

(2) The prisoner has the right to elect to be assigned an investigative employee who will gather information, talk to witnesses, prepare a written report and be present at the hearing.

(3) The prisoner may request witnesses to attend the hearing and they shall be called unless the person conducting the hearing has specific reasons to deny this request. Such specific reasons shall be set forth in writing and a copy of such document shall be presented to the prisoner.

(4) The person who will conduct the hearing shall determine if

the prisoner shall need assistance with presentation of a defense at the hearing and if so, at the prisoner's discretion, the prisoner has the right to be assigned an employee of the Department of Corrections to assist in presenting the prisoner's defense.

(5) The prisoner has the right, under the direction of the person conducting the hearing, to question all witnesses.

(6) At the conclusion of the hearing the charge shall be dismissed if the facts do not support the charge, or the inmate may be found guilty on the basis of a preponderance of the evidence.

(7) If found guilty the prisoner shall be advised within 10 days in writing of the guilty finding and the specific evidence relied upon to reach this conclusion and the amount of good time loss. The prisoner may appeal such decision through the Department of Corrections review procedure, and may, upon final notification of appeal denial, within 10 days of such notification demand review of the department's denial of credit by the Community Release Board, and the board may affirm, reverse or modify the department's decision.

(b) The Department of Corrections shall recompute prison time to be served on the basis of good time earned at eight-month intervals for each prisoner and notify such prisoner of his redetermined release date.

(c) The Department of Corrections shall meet with each inmate at least 30 days prior to his good-time release date and shall specify the conditions of parole and the length of parole up to the maximum periods of time provided for by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the Community Release Board.

(d) If the conduct the prisoner is charged with also constitutes a crime and the Department of Corrections refers the case to criminal authorities for possible prosecution, the Department of Corrections shall not hold the good behavior or participation denial hearing unless the district attorney has certified in writing that no prosecution will be undertaken. However, such hearing must be held within 30 days from the time the prisoner is initially notified of a possible loss of good behavior or participation credit.

In the case where the prisoner is prosecuted by the district attorney the Department of Corrections shall not deny good behavior credit where the prisoner is found not guilty and may deny good behavior credit pursuant to the schedule specified in Section 2931 if the prisoner is found guilty.

(e) If good behavior or participation credit denial proceedings, or criminal prosecution prohibit the release of a prisoner who would have otherwise been released, and the prisoner is found not guilty of the alleged misconduct, the amount of time spent incarcerated, in excess of what the period of incarceration would have been absent the alleged misbehavior, shall be deducted from the prisoner's parole period.

SEC. 277. Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code is repealed.

SEC. 278. Article 1 (commencing with Section 3000) is added to Chapter 8 of Title 1 of Part 3 of the Penal Code, to read:

Article 1. General Provisions

3000. Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter:

(a) At the expiration of a term of imprisonment imposed pursuant to Section 1170, or at the expiration of such term as reduced pursuant to Section 2931, if applicable, the inmate shall be released on parole for a period not exceeding one year, unless the board for good cause waives parole and discharges the inmate from custody of the department.

(b) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed three years in the case of an inmate imprisoned under a life sentence, and shall not exceed one year in the case of an inmate whose prison sentence does not consist of imprisonment under a life sentence, unless in either case the board for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall be also applicable to inmates sentenced prior to the effective date of this section to the extent specified in Section 1170.2.

(c) The board shall consider the request of any inmate regarding the length of his parole and the conditions thereof.

(d) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under subdivision (a) or (b), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and subdivisions (a) and (b) shall be computed from the date of initial parole, and shall be a period chronologically determined, without interruption, whether or not parole has been revoked and the inmate has been sentenced under Section 3057. If a prisoner absconds during the period of parole the running of such period shall be suspended until the prisoner is located and returned.

(e) It is not the intent of this section to diminish resources presently allocated to the Department of Corrections for parole functions.

SEC. 278.2. Section 3022 of the Penal Code is amended to read:

3022. (a) At least 30 days before the Community Release Board shall meet to fix and determine the length of time any prisoner shall be confined, the authority shall send written notice thereof to each of the following persons: the judge of the superior court before whom the prisoner was tried and convicted, the attorney for the defendant and the district attorney of the county from which the prisoner was sentenced and the law enforcement agency that investigated the case.

(b) In all cases which involve a prisoner convicted for the commission of murder in the first degree, or kidnapping as defined

442 239425 478

in Section 209, the Community Release Board shall record all hearings to fix and determine the length of time any prisoner shall be confined and transcribe such recordings within 30 days of any such hearing in which such a date is fixed and determined. All such transcripts shall be filed and maintained in the office of the Community Release Board, and shall be made available to the public no later than 30 days from the date of the hearing in which time is fixed and determined for such a prisoner. No such prisoner shall actually be released on parole prior to 60 days from the date of the hearing in which his time was fixed and determined.

(c) At any hearing to fix and determine time wherein a prisoner is convicted of the commission of any one or more of the crimes listed in subdivision (b), the presiding hearing officer must state findings and supporting reasons on the record.

(d) Any statements, recommendations or other materials considered to fix and determine time shall be incorporated into the transcript of any such hearing which involves a prisoner convicted for the commission of any one or more of the crimes listed in subdivision (b).

SEC. 279. Section 3024 of the Penal Code is repealed.

SEC. 280. Section 3025 of the Penal Code is amended to read:

3025. The provisions of this article apply to all prisoners now serving sentence in the state prisons, and to all prisoners received in such prisons after the effective date of this section, whose terms of imprisonment are fixed pursuant to Section 1168.

SEC. 281. Section 3041 of the Penal Code is amended to read:

3041. (a) In the case of any prisoner sentenced pursuant to any provision of law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Community Release Board shall meet with each such inmate in a three-member panel within the first year of incarceration for the purposes of reviewing the inmate's file and making recommendations. One year prior to the inmate's minimum eligible parole release date a three-member panel of the board shall again meet with the inmate and shall normally set a parole release date. The Community Release Board shall set the parole release date in a manner that will provide uniform terms for offenses of similar gravity and magnitude in respect to their threat to the public. The board shall comply with the sentencing rules that the Judicial Council may issue and any sentencing information relevant to the setting of parole release date. The board shall establish criteria for the setting of parole release dates and in doing so shall consider the number of victims of the crime for which the prisoner was sentenced and other factors in mitigation or aggravation of the crime. At least one member of the panel shall have been present at the last preceding meeting, except where the last preceding meeting was the initial meeting. When release is recommended by two of the three members, that shall be the order. Any dissenting hearing panel member may appeal any decision regarding parole to the full board for an en banc hearing. In case of such an appeal, a majority vote of

the full Community Release Board in favor of parole is required to grant parole to any prisoner.

(b) The board shall set a release date unless they determine that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual, and that a parole date, therefore, cannot be fixed at this meeting.

SEC. 281.8. Section 3041.5 is added to the Penal Code, to read:

3041.5. (a) At all meetings held for the purpose of reviewing a prisoner's parole eligibility, or the setting, postponing or rescinding of parole dates, or evaluating the prisoner's appeal of good-time denial.

(1) The prisoner shall be permitted to review his or her file which will be examined by the Community Release Board at least 10 days prior to any hearing by such board and shall have the opportunity to enter a written response to any material contained in such file.

(2) The prisoner shall be permitted to be present, to ask and answer questions, and to speak on his own behalf.

(3) He shall receive the undivided attention of all the board members who will vote on any decision concerning him.

(4) A person designated by the Department of Corrections shall be present to insure that all facts relevant to the decision be presented, including, if necessary, contradictory assertions as to matters of fact that have not been resolved by departmental or other procedures.

(5) The prisoner shall be permitted to request and receive a stenographic record of all proceedings.

(b) (1) Within 10 days following any meeting where a parole date has been set, the board shall send the prisoner a written statement setting forth his parole date, the conditions he must meet in order to be released on the date set, and the consequences of failure to meet such conditions.

(2) Within 20 days following any meeting where a parole date has not been set for the reasons stated in subdivision (b) of Section 3041, the board shall send the prisoner a written statement setting forth the reason or reasons for refusal to set a parole date; at what time the prisoner can reasonably expect to be considered for the setting of a parole date; and suggest activities in which he might participate that will benefit him while he is incarcerated. The board shall review each such case before the inmate's statutory minimum eligible release date and annually thereafter.

(3) Within 10 days of any board action resulting in the postponement of a previously set parole date, the board shall send the prisoner a written statement setting forth a new date and the reason or reasons for such action and shall offer the prisoner an opportunity for review of such action within 90 days of the time the prisoner receives the statement.

(4) Within 10 days of any board action resulting in the rescinding

of a previously set parole date, the board shall send the prisoner a written statement setting forth the reason or reasons for such action, shall offer the prisoner an opportunity for review of such action and shall, within six months, set the prisoner's parole release date in accord with the provisions of Section 3041 and this section.

SEC. 281.4. Section 3041.7 is added to the Penal Code, to read:

3041.7. A prisoner whose release date has been set at more than three years beyond the minimum eligible parole date, or whose parole release date is not set at the meeting which takes place one year prior to the prisoner's minimum eligible parole date, or whose parole date has been rescinded shall be notified of his or her right to request a rehearing by the board. Such rehearing shall be held within 60 days of such request. At the rehearing and at any subsequent hearings the inmate shall be entitled to be represented by counsel and the provisions of Section 3041.5 shall apply.

SEC. 281.5. Section 3047 of the Penal Code is repealed.

SEC. 281.6. Section 3047.5 of the Penal Code is repealed.

SEC. 281.7. Section 3048 of the Penal Code is repealed.

SEC. 281.8. Section 3048.5 of the Penal Code (as added by Chapter 934 of the 1945 Statutes) is repealed.

SEC. 281.9. Section 3048.5 of the Penal Code (as added by Chapter 1381 of the 1947 Statutes) is repealed.

SEC. 282. Section 3049 of the Penal Code is amended to read:

3049. In all other cases not heretofore provided for, no prisoner sentenced prior to July 1, 1977 may be paroled until he has served the minimum term of imprisonment provided by law for the offense of which he was convicted, except that in cases where the prisoner was serving a sentence on December 31, 1947, and in which the minimum term of imprisonment is more than one year, he may be paroled at any time after the expiration of one-half of the minimum term, with benefit of credits, but in no case shall he be paroled until he has served one calendar year; provided, that any prisoner, received on or after January 1, 1948, at any state prison or institution under the jurisdiction of the Director of Corrections, whose minimum term of imprisonment is more than one year, may be paroled at any time after the expiration of one-third of the minimum term. In all other cases he may be paroled at any time after he has served the minimum term prescribed by law.

SEC. 282.5. Section 3057 is added to the Penal Code, to read:

3057. Confinement pursuant to parole revocation in the absence of a new conviction and prison sentence under other provisions of law, shall not exceed six months. In no event shall confinement under this section extend beyond the maximum statutory period of parole for the inmate specified by Section 3000. If the inmate is subsequently released on parole, his parole period shall not extend beyond such maximum statutory period of parole.

SEC. 283. Section 3065 of the Penal Code is amended to read:

3065. Except as otherwise provided in Section 1170.2 and Article 1 (commencing with Section 3000) of this chapter, the provisions of

this article are to apply to all prisoners now serving sentence in the state prisons, to the end that at all times the same provisions relating to sentence, imprisonments and paroles of prisoners shall apply to all the inmates thereof.

SEC. 284. Section 4501 of the Penal Code is amended to read:

4501. Every person confined in a state prison of this state except one undergoing a life sentence who commits an assault upon the person of another with a deadly weapon or instrument, or by any means of force likely to produce great bodily injury, shall be guilty of a felony and shall be imprisoned in the state prison for two, three or four years to be served consecutively.

SEC. 285. Section 4501.5 of the Penal Code is amended to read:

4501.5. Every person confined in a state prison of this state who commits a battery upon the person of any individual who is not himself a person confined therein shall be guilty of a felony and shall be imprisoned in the state prison for 16 months, or two or three years, to be served consecutively.

SEC. 286. Section 4502 of the Penal Code is amended to read:

4502. Every person confined in a state prison or who, while being conveyed to or from any state prison or while at any prison road camp, prison forestry camp, or other prison camps or prison farms or while being conveyed to or from any such place or while under the custody of prison officials, officers or employees, possesses or carries upon his person or has under his custody or control any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, or metal knuckles or any explosive substance or any dirk or dagger or sharp instrument, or any pistol, revolver or other firearm, is guilty of a felony and shall be punishable by imprisonment in a state prison for 16 months, or two or three years to be served consecutively.

SEC. 287. Section 4503 of the Penal Code is amended to read:

4503. Any person confined therein who holds as hostage any person within any prison or facility under the jurisdiction of the Director of Corrections, or who by force or threat of force holds any person or persons against their will in defiance of official orders within any such prison or facility, shall be guilty of a felony and shall be imprisoned in the state prison for three, four or five years to be served consecutively.

SEC. 288. Section 4530 of the Penal Code is amended to read:

4530. (a) Every prisoner confined in a state prison who, by force or violence, escapes or attempts to escape therefrom and every prisoner committed to a state prison who, by force or violence, escapes or attempts to escape while being conveyed to or from such prison or any other state prison, or any prison road camp, prison forestry camp, or other prison camp or prison farm or any other place while under the custody of prison officials, officers or employees; or who, by force or violence, escapes or attempts to escape from any prison road camp, prison forestry camp, or other prison camp or prison farm or other place while under the custody of prison officials,

officers or employees; or who, by force or violence escapes or attempts to escape while at work outside or away from prison under custody of prison officials, officers, or employees, is punishable by imprisonment in a state prison for a term of two, three or four years. The second term of imprisonment of a person convicted under this subdivision shall commence from the time he would otherwise have been discharged from said prison. No additional probation report shall be required with respect to such offense.

(b) Every prisoner who commits an escape or attempts an escape as described in subdivision (a), without force or violence, is punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively. No additional probation report shall be required with respect to such offense.

(c) The willful failure of a prisoner who is employed or continuing his education, or who is authorized to secure employment or education, or who is temporarily released pursuant to the provisions of Sections 2690, 2910, or 6254 of this code, or Section 3306 of the Welfare and Institutions Code, to return to the place of confinement not later than the expiration of a period during which he is authorized to be away from such place of confinement, is an escape from such place of confinement punishable as provided in this section. A conviction of violation of this subdivision, not involving force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense.

SEC. 289. Section 4532 of the Penal Code is amended to read:

4532. (a) Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of Sections 5654, 5656, or 5677 of the Welfare and Institutions Code as an inebriate, who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is employed or continuing in his regular educational program or authorized to secure employment or education away from the place of confinement, pursuant to the Work Furlough Rehabilitation Law (Section 1208), and who thereafter escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged on or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for not exceeding one year and one day to be served consecutively, regardless of any prior convictions, or in the county jail not exceeding one year; provided, however, that if such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison for two, three or four years to be served consecutively, or in the county jail not exceeding one year; provided, that when said second term of

imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from said jail.

The willful failure of a prisoner, whether convicted of a felony or a misdemeanor, employed or continuing in his regular educational program or authorized to secure employment or education pursuant to the Work Furlough Rehabilitation Law (Section 1208) to return to the place of confinement not later than the expiration of a period during which, pursuant to that law, he is authorized to be away from such place of confinement, is an escape from such place of confinement punishable as provided in this subdivision.

A conviction of violation of this subdivision, not by force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense.

(b) Every prisoner arrested and booked for, charged with, or convicted of a felony who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, who escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged on or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively, or in the county jail not exceeding one year; provided, that if such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison for two, three or four years to be served consecutively, or in the county jail not exceeding one year; provided that when such second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from such jail.

SEC. 290. Section 4533 of the Penal Code is amended to read:

4533. Every keeper of a prison, sheriff, deputy sheriff, constable, or jailor, or person employed as a guard, who fraudulently contrives, procures, aids, connives at, or voluntarily permits the escape of any prisoner in custody, is punishable by imprisonment in the state prison, and fine not exceeding ten thousand dollars ($10,000).

SEC. 291. Section 4535 of the Penal Code is amended to read:

4535. Every person who carries or sends into a prison or jail anything useful to aid a prisoner or inmate in making his escape, with intent thereby to facilitate the escape of any prisoner or inmate confined therein, is guilty of a felony.

SEC. 292. Section 4550 of the Penal Code is amended to read:

4550. Every person who rescues or attempts to rescue, or aids another person in rescuing or attempting to rescue any prisoner from any prison, or prison road camp or any jail or county road camp,

or from any officer or person having him in lawful custody, is punishable as follows:

1. If such prisoner was in custody upon a conviction of a felony punishable with death: by imprisonment in the state prison for two, three or four years;

2. If such prisoner was in custody otherwise than as specified in subsection 1 hereof: by imprisonment in the state prison, or by imprisonment in the county jail not to exceed one year.

SEC. 293. Section 4574 of the Penal Code is amended to read:

4574. Except when otherwise authorized by law, or when authorized by the person in charge of the prison or other institution referred to in this section or by an officer of the institution empowered by the person in charge of the institution to give such authorization, any person, who knowingly brings or sends into, or knowingly assists in bringing into, or sending into, any state prison or prison road camp or prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the state prison are located under the custody of prison officials, officers or employees, or any jail or any county road camp in this state, or within the grounds belonging or adjacent to any such institution, any firearms, deadly weapons or explosives, and any person who, while lawfully confined in a jail or county road camp possesses therein any firearm, deadly weapon, or explosive, is guilty of a felony and punishable by imprisonment in the state prison.

SEC. 293.5. Section 4600 of the Penal Code is amended to read:

4600. Every person who willfully and intentionally breaks down, pulls down, or otherwise destroys or injures any jail or prison, is punishable by fine not exceeding ten thousand dollars ($10,000), and by imprisonment in the state prison, except that where the damage or injury to any city, city and county or county jail property is determined to be two hundred dollars ($200) or less, he is guilty of a misdemeanor.

SEC. 294. Section 5075 of the Penal Code is amended to read:

5075. The Community Release Board shall be composed of nine members, each of whom shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and until the appointment and qualification of his successor. Members shall be eligible for reappointment. Two of the original appointees shall be persons who were members of the Adult Authority immediately prior to the effective date of this section, and two shall be persons who were members of the Women's Board of Terms and Parole immediately prior to the effective date of this section.

The chairman of the board shall be designated by the Governor from time to time. The chairman shall be the administrative head of the board and shall exercise all duties and functions necessary to insure that the responsibilities of the board are successfully discharged. He shall be the appointing authority for all civil service positions of employment in the board.

The terms of the members shall expire as follows: two on March

15, 1978, two on March 15, 1979, two on March 15, 1980, and three on March 15, 1981. Successor members shall hold office for terms of four years, each term to commence on the expiration date of the term of the predecessor. The Governor shall fill every vacancy for the balance of the unexpired term. The selection of persons and their appointment by the Governor and confirmation by the Senate shall reflect as nearly as possible a cross-section of the racial, sexual, economic, and geographic features of the population of the state.

It is the further intent of this section that the board shall adopt such policies and practices as will permit continuing operations and improvements without any further increase in the number of its members.

SEC. 295. Section 5076 of the Penal Code is amended to read:

5076. Each member of the board shall devote his entire time to the duties of his office and shall receive an annual salary provided for by Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 296. Section 5076.1 of the Penal Code is amended to read:

5076.1. The board shall meet at each of the state prisons at such times as may be necessary for a full and complete study of the cases of all prisoners whose applications for parole come before it. Other times and places of meeting may also be fixed by the board. Each member of the board shall receive his actual necessary traveling expenses incurred in the performance of his official duties. Where the board performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, at least five members shall be present, and no such action shall be valid unless it is concurred in by a majority vote of those present.

The board may meet and transact business in panels. Each board panel shall consist of at least three members. No action shall be valid unless concurred in by a majority vote of the members present.

The board may employ representatives to whom it may assign appropriate duties not restricted only to members by law.

SEC. 297. Section 5077 of the Penal Code is amended to read:

5077. The Community Release Board shall review all prisoners' requests for reconsideration of denial of good time credit, and setting of parole length or conditions, and shall have the authority to modify the previously made decisions of the Department of Corrections as to these matters. The revocation of parole shall be determined by the Community Release Board.

SEC. 298. Section 5078 of the Penal Code is repealed.

SEC. 299. Section 5078 is added to the Penal Code, to read:

5078. (a) The Community Release Board shall succeed to and shall exercise and perform all powers and duties granted to, exercised by, and imposed upon the Adult Authority and California Women's Board of Terms and Paroles.

(b) The Adult Authority and California Women's Board of Terms and Paroles are abolished.

SEC. 300. Section 5080 of the Penal Code is amended to read:

5080. The Director of Corrections may transfer persons confined in one state prison institution or facility of the Department of Corrections to another. The Community Release Board may request the Director of Corrections to transfer an inmate who is under its parole-granting jurisdiction if, after review of the case history in the course of routine procedures, such transfer is deemed advisable for the further diagnosis, and treatment of the inmate. The director shall as soon as practicable comply with such request, provided that, if facilities are not available he shall report that fact to the Community Release Board and shall make the transfer as soon as facilities become available; provided further, that if in the opinion of the Director of Corrections such transfer would endanger security he may report that fact to the Community Release Board and refuse to make such transfer.

When transferring an inmate from one state prison, institution, or facility of the Department of Corrections to another, the director may, as necessary or convenient, authorize transportation via a route that lies partly outside this state.

SEC. 300.1. Section 5081 of the Penal Code is amended to read:

5081. The Governor may remove any member of the Community Release Board for misconduct, incompetency or neglect of duty after a full hearing by the Board of Corrections.

SEC. 300.2. Section 5082 of the Penal Code is amended to read:

5082. (a) Such employees of the Community Release Board as are needed to carry out its functions shall be selected and appointed pursuant to the State Civil Service Act. Nothing shall prohibit the Community Release Board from employing any person employed formerly by the Adult Authority or Women's Board of Terms and Paroles.

(b) Chapter 6 of Title 7, Part 3, relating to the employment of personnel by the department, does not apply to the Division of Adult Paroles or to the employees of the Community Release Board.

SEC. 300.3. Chapter 5.5 (commencing with Section 6035) of Title 7 of Part 3 of the Penal Code is repealed.

SEC. 300.5. Section 6133 of the Penal Code is amended to read:

6133. Every person confined in the institution, other than those committed to the custody of the Director of Corrections, who escapes or who attempts to escape therefrom, is guilty of a crime and shall be imprisoned in a state prison, or in the county jail for not exceeding one year.

SEC. 301. Section 11401 of the Penal Code is amended to read:

11401. Any person who:

1. By spoken or written words or personal conduct advocates, teaches or aids and abets criminal syndicalism or the duty, necessity or propriety of committing crime, sabotage, violence or any unlawful method of terrorism as a means of accomplishing a change in industrial ownership or control, or effecting any political change; or

2. Willfully and deliberately by spoken or written words justifies or attempts to justify criminal syndicalism or the commission or

attempt to commit crime, sabotage, violence or unlawful methods of terrorism with intent to approve, advocate or further the doctrine of criminal syndicalism; or

3. Prints, publishes, edits, issues or circulates or publicly displays any book, paper, pamphlet, document, poster or written or printed matter in any other form, containing or carrying written or printed advocacy, teaching, or aid and abetment of, or advising, criminal syndicalism; or

4. Organizes or assists in organizing, or is or knowingly becomes a member of, any organization, society, group or assemblage of persons organized or assembled to advocate, teach or aid and abet criminal syndicalism; or

5. Willfully by personal act or conduct, practices or commits any act advised, advocated, taught or aided and abetted by the doctrine or precept of criminal syndicalism, with intent to accomplish a change in industrial ownership or control, or effecting any political change;

Is guilty of a felony and punishable by imprisonment in the state prison.

SEC. 302. 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.

(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.

(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. 303. Section 12021 of the Penal Code, is amended to read:

12021. (a) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or who is addicted to the use of any narcotic drug, who owns or has in his possession or under his custody or control any pistol, revolver, or other firearm capable of being concealed upon the person is guilty of a public offense, and shall be punishable by imprisonment in the state prison, or in a county jail not exceeding one year or by a fine not exceeding five hundred dollars ($500), or by both.

(b) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment; or

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both such punishments.

SEC. 304. Section 12022 of the Penal Code is amended to read:

12022. Any person who commits or attempts to commit any felony within this state while personally armed with any deadly weapon, upon conviction of such felony or of an attempt to commit such felony, shall in addition to the punishment prescribed for the crime of which he has been convicted, be punished by imprisonment in a state prison for one year. Such additional period of imprisonment shall commence upon the expiration or other termination of the sentence imposed for the crime of which he is convicted and shall not run concurrently with such sentence.

However, if the court determines that there are circumstances in mitigation of the punishment prescribed, the court may strike the additional punishment, provided that reasons therefor are stated on the record.

As used in this section "deadly weapon" includes 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.

SEC. 305. Section 12022.5 of the Penal Code is amended to read:

12022.5. Any person who uses a firearm in the commission or attempted commission of a felony, upon conviction of such felony, shall, in addition to the punishment prescribed for the felony of which he has been convicted, be punished by imprisonment in the state prison for a period of two years. Such additional period of imprisonment shall commence upon expiration or other termination of the sentence imposed for the felony of which he is convicted and shall not run concurrently with such sentence. However, if the court determines that there are circumstances in mitigation of the punishment prescribed, the court may strike the additional punishment, provided that reasons therefor are stated on the record.

SEC. 305.5. Section 12022.6 is added to the Penal Code, to read:

12022.6. Where the elements of any felony, excepting robbery as defined in Section 211, arson, as defined in Section 447a, 448a, 449a, 449b, or 449c, and burglary as defined in Section 459, involve any criminal taking of funds or property from or property damage to any individual, organization, group or the community in general, and either do not specify a minimum value of the taking or damage, or specify a minimum of less than one hundred thousand dollars ($100,000), in any such case where the specific circumstances involve:

(a) A taking or damage in excess of one hundred thousand dollars ($100,000), but less than five hundred thousand dollars ($500,000) such facts may be charged in the indictment or information and if found to be true by the jury upon a jury trial, or if found to be true by the court upon a court trial, or if admitted by the defendant, shall be punished by an additional term of imprisonment of one-half the base term selected by the judge.

(b) A taking or damage equal to or greater than five hundred thousand dollars ($500,000), such facts may be charged in the indictment or information and if found to be true by the jury upon jury trial, or if found to be true by the court upon court trial, or if admitted by the defendant, shall be punished by an additional term of imprisonment equivalent to the base term selected by the trial judge.

(c) However, if the court determines that there are circumstances in mitigation of the punishment prescribed in subdivision (a) or (b), the court may strike the additional punishment, provided that reasons therefor are stated on the record.

SEC. 306. Section 12022.7 is added to the Penal Code, to read:

12022.7. In any case, except a homicide offense, in which defendant is convicted of a felony in which the infliction of great bodily injury is not an element of the crime but in the course of the commission of said crime and with the intent to inflict such injury, the defendant inflicts such injury upon any person other than accomplices, such fact may be charged in the indictment or information and if found to be true by the jury upon a jury trial, or

if found to be true by the court upon a court trial, or if admitted by the defendant, defendant shall be punished by imprisonment in the state prison for three years in addition and consecutive to the punishment prescribed for the felony of which he has been convicted. However, if the court determines that there are circumstances in mitigation of the punishment prescribed, the court may strike the additional punishment, provided that reasons therefor are stated on the record.

As used in this section "great bodily injury" means a serious impairment of physical condition, which includes any of the following:

(a) Prolonged loss of consciousness.

(b) Severe concussion.

(c) Protracted loss of any bodily member or organ.

(d) Protracted impairment of function of any bodily member or organ or bone.

(e) A wound or wounds requiring extensive suturing.

(f) Serious disfigurement.

(g) Severe physical pain inflicted by torture.

SEC. 306.5. 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.

(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, 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.

(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.

SEC. 307. Section 12090 of the Penal Code is amended to read:

12090. Any person who changes, alters, removes or obliterates the name of the maker, model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice on any pistol, revolver, or any

other firearm, without first having secured written permission from the department to make such change, alteration or removal shall be punished by imprisonment in the state prison.

SEC. 308. Section 12220 of the Penal Code is amended to read:

12220. Any person, firm or corporation, who within this state sells, offers for sale, possesses or knowingly transports any firearms of the kind commonly known as a machine gun, except as provided by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 309. Section 12303 of the Penal Code is amended to read:

12303. Any person, firm, or corporation who, within this state, possesses any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the county jail for a term not to exceed one year, or in state prison, or by a fine not to exceed five thousand dollars ($5,000) or by both such fine and imprisonment.

SEC. 310. Section 12303.1 of the Penal Code, is amended to read:

12303.1. Every person who willfully does any of the following is guilty of a felony and is punishable by imprisonment in the state prison for two, three or four years:

(a) Carries any explosive or destructive device on any vessel, aircraft, car, or other vehicle that transports passengers for hire.

(b) Places or carries any explosive or destructive device, while on board any such vessel, aircraft, car or other vehicle, in any hand baggage, roll, or other container.

(c) Places any explosive or destructive device in any baggage which is later checked with any common carrier.

SEC. 311. Section 12303.2 of the Penal Code is amended to read:

12303.2. Every person who recklessly or maliciously has in his possession any destructive device or any explosive on a public street or highway, in or near any theater, hall, school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, cable road or cable car, vessel engaged in carrying passengers for hire, or other public place ordinarily passed by human beings is guilty of a felony, and shall be punishable by imprisonment in the state prison for a period of two, three or four years.

SEC. 312. Section 12303.3 of the Penal Code is amended to read:

12303.3. Every person who possesses, explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to injure, intimidate, or terrify any person, or with intent to wrongfully injure or destroy any property, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of three, four or five years.

SEC. 313. Section 12303.6 of the Penal Code, is amended to read:

12303.6. Any person, firm, or corporation who, within this state,

sells, offers for sale, or knowingly transports any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a felony and is punishable by imprisonment in the state prison for two, three or four years.

SEC. 314. Section 12304 of the Penal Code is amended to read:

12304. Any person, firm or corporation who, within this state, sells, offers for sale, possesses or knowingly transports any fixed ammunition of a caliber greater than .60 caliber, except as provided in this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the county jail for a term not to exceed six months or by a fine not to exceed one thousand dollars ($1,000), or by both such fine and imprisonment.

A second or subsequent conviction shall be punished by imprisonment in the county jail for a term not to exceed one year, or by imprisonment in the state prison, or by a fine not to exceed three thousand dollars ($3,000), or by both such fine and imprisonment.

SEC. 315. Section 12308 of the Penal Code is amended to read:

12308. Every person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to commit murder is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of three, four or five years.

SEC. 316. Section 12309 of the Penal Code is amended to read:

12309. Every person who willfully and maliciously explodes or ignites any destructive device or any explosive which causes bodily injury to any person is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of five, six or seven years.

SEC. 317. Section 12312 of the Penal Code is amended to read:

12312. Every person who possesses any substance, material, or any combination of substances or materials, with the intent to make any destructive device or any explosive without first obtaining a valid permit to make such destructive device or explosive, is guilty of a felony, and is punishable by imprisonment in the state prison.

SEC. 318. Section 12420 of the Penal Code is amended to read:

12420. Any person, firm, or corporation who within this state knowingly sells or offers for sale, possesses, or transports any tear gas weapon, except as permitted under the provisions of this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison or by a fine not to exceed two thousand dollars ($2,000), or by both.

SEC. 319. Section 12422 of the Penal Code is amended to read:

12422. Any person who changes, alters, removes or obliterates the name of the manufacturer, the serial number or any other mark of identification on any tear gas weapon is guilty of a public offense and, upon conviction, shall be punished by imprisonment in the state prison or by a fine of not more than two thousand dollars ($2,000) or by both.

Possession of any such weapon upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same.

SEC. 320. Section 12520 of the Penal Code is amended to read:

12520. Any person, firm or corporation who within this state possesses any device of the kind commonly known as a silencer for firearms is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison or by a fine not to exceed five thousand dollars ($5,000) or by both.

SEC. 321. Section 12560 of the Penal Code is amended to read:

12560. Every person who has been convicted of a felony under the laws of the United States, of the State of California, or of any other state, government, or country and who used a firearm in the commission of such felony, who owns or has in his possession or under his custody or control any firearm is punishable by imprisonment in the state prison or in a county jail not exceeding one year or by a fine not exceeding five hundred dollars ($500), or by both such term of imprisonment and such fine.

SEC. 322. 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, 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. 323. Section 7680 of the Public Utilities Code is amended to read:

7680. Every conductor, engineer, brakeman, switchman, or other person having charge, wholly or in part, of any railroad, car, locomotive, or train, who willfully or negligently suffers or causes it to collide with another car, locomotive, or train, or with any other object or thing whereby the death of a human being is produced, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 324. Section 7903 of the Public Utilities Code is amended to read:

7903. Every agent, operator, or employee of any telegraph or telephone office, who in any way uses or appropriates any information derived by him from any private message passing through his hands, and addressed to any other person, or in any other manner acquired by him by reason of his trust as such agent, operator, or employee, or trades or speculates upon any such information so obtained, or in any manner turns, or attempts to turn, the information so obtained to his own account, profit, or advantage, is punishable by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 325. Section 21407.6 of the Public Utilities Code is amended to read:

21407.6. (a) Any person convicted under Section 21407.5 shall be punished upon a first conviction by imprisonment in the county jail for not less than 30 days nor more than six months or by a fine of not

less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) or by both such fine and imprisonment.

Any person convicted under Section 21407.5 shall be punished upon a second or any subsequent conviction by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000), without being granted probation by the court and without having the court suspend the execution of the sentence.

(b) Any person convicted under Section 21407.5 and who, when so operating an aircraft, has done any act forbidden by law or neglects any duty imposed by law in the operation of such aircraft, which act or neglect proximately causes bodily injury to any person other than himself shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year and by fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

SEC. 325.5. Section 14813 of the Revenue and Taxation Code is amended to read:

14813. All information and records acquired by the Controller, the inheritance tax attorney, or any subordinate inheritance tax attorney are confidential in nature, and, except insofar as may be necessary for the enforcement of this part or as may be permitted by this article, shall not be disclosed by any of them.

Except insofar as may be necessary for the enforcement of this part or as may be permitted by this article, any former or incumbent Controller, inheritance tax attorney, or subordinate inheritance tax attorney who discloses any information acquired by any inspection or examination made pursuant to this article is guilty of a felony.

SEC. 326. Section 16563 of the Revenue and Taxation Code is amended to read:

16563. All information and records acquired by the Controller or any of his employees are confidential in nature, and, except insofar as may be necessary for the enforcement of this part or as may be permitted by this article, shall not be disclosed by any of them.

Except insofar as may be necessary for the enforcement of this part or as may be permitted by this article, any former or incumbent Controller or employee of the Controller who discloses any information acquired by any inspection or examination made pursuant to this article is guilty of a felony, and upon conviction shall be imprisoned in the state prison.

SEC. 327. Section 19405 of the Revenue and Taxation Code is amended to read:

19405. (a) Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than two thousand dollars

($2,000) or imprisoned in the state prison, or both.

(b) The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

SEC. 328. Section 19406 of the Revenue and Taxation Code is amended to read:

19406. Any person who, within the time required by or under the provisions of this part, willfully fails to file any return or to supply any information with intent to evade any tax imposed by this part, or who, willfully and with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information, is punishable by imprisonment in the county jail not to exceed one year, or in the state prison, or by fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment, at the discretion of the court.

SEC. 328.5. Section 19408 of the Revenue and Taxation Code is amended to read:

19408. Any person required under this part to collect, account for, and pay over any tax or amount required to be withheld who willfully fails to collect or truthfully account for and pay over such tax or amount shall, in addition to other penalties provided by law, be guilty of a felony, and, upon conviction thereof, shall be fined not more than two thousand dollars ($2,000) or imprisoned in the state prison, or both.

SEC. 329. Section 25961 of the Revenue and Taxation Code is amended to read:

25961. Any individual or corporation or any officer or employee of any corporation, who, with intent to evade any tax or any requirement of this part, willfully fails to file any return or to supply any information within the time required by or under the provisions of this part, or who, willfully and with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information, is punishable by imprisonment in the county jail not longer than one year or in the state prison or by fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment, at the discretion of the court.

SEC. 330. Section 25962 of the Revenue and Taxation Code is amended to read:

25962. (a) Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than two thousand dollars ($2,000) or imprisoned in the state prison, or both.

(b) The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was

actually signed by him.

SEC. 331. Section 25962.2 of the Revenue and Taxation Code is amended to read:

25962.2. Any person required under this part to collect, account for, and pay over any tax or amount required to be withheld who willfully fails to collect or truthfully account for and pay over such tax or amount shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than two thousand dollars ($2,000), or imprisoned in the state prison, or both.

SEC. 332. Section 30473 of the Revenue and Taxation Code is amended to read:

30473. Any person who falsely or fraudulently makes, forges, alters, reuses or counterfeits any stamp or meter impression provided for or authorized under this part, or tampers with any metering machine authorized under this part, or causes or procures to be falsely or fraudulently made, forged, altered, reused or counterfeited, any such stamp or meter impression or knowingly and willfully utters, publishes, passes, or tenders as genuine any such false, forged, altered, reused or counterfeited stamp or meter impression, for the purpose of evading the tax imposed by this part, is guilty of a felony and subject to imprisonment for two, three or four years, or to a fine of not less than one thousand dollars ($1,000) and not more than ten thousand dollars ($10,000), or to both fine and imprisonment.

SEC. 333. Section 30475 of the Revenue and Taxation Code is amended to read:

30475. (a) Any transporter who transports cigarettes upon the highways, roads or streets of this state without having obtained a permit or without having a permit in the transporting vehicle as prescribed by Section 30431 or without having in the transporting vehicle the invoices, bills of lading or delivery tickets for the cigarettes as prescribed by Section 30432 is guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars ($1,000) or be imprisoned for not more than one year in the county jail, or be subject to both fine and imprisonment in the discretion of the court.

(b) Any transporter who, with intent to defeat or evade or with intent to aid another to defeat or evade the taxes imposed by this part, at any given time transports 40,000 or more cigarettes upon the highways, roads or streets of this state without having obtained a permit or without having a permit in the transporting vehicle as prescribed by Section 30431 or without having in the transporting vehicle the invoices, bills of lading or delivery tickets for the cigarettes as prescribed by Section 30432 shall be punished by imprisonment in the county jail for not more than one year, or in the state prison, or by fine of not more than five thousand dollars ($5,000), or be subject to both fine and imprisonment in the discretion of the court.

SEC. 334. Section 32555 of the Revenue and Taxation Code is amended to read:

32555. Every person convicted of a felony for a violation of any of the provisions of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment in the state prison, or by both such fine and imprisonment.

SEC. 335. Section 4463 of the Vehicle Code is amended to read:

4463. Every person who, with intent to defraud, alters, forges, counterfeits, or falsifies any certificate of ownership, registration card, certificate, license or special plate or permit provided for by this code or any comparable certificate of ownership, registration card, certificate, license or special plate or permit relating to motor vehicles provided for by any foreign jurisdiction or who alters, forges, counterfeits, or falsifies any such document or plate with intent to represent the same as issued by the department or who alters, forges, counterfeits, or falsifies with fraudulent intent any endorsement of transfer on a certificate of ownership, or who with fraudulent intent displays or causes or permits to be displayed or have in his possession any blank, incomplete, canceled, suspended, revoked, altered, forged, counterfeit, or false certificate of ownership, registration card, certificate, license or special plate or permit or who utters, publishes, passes, or attempts to pass, as true and genuine, any of the above-named false, altered, forged, or counterfeited matters knowing the same to be false, altered, forged, or counterfeited with intent to prejudice, damage, or defraud any person is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year.

SEC. 336. Section 10851 of the Vehicle Code is amended to read:

10851. Any person who drives or takes a vehicle not his own, without the consent of the owner thereof, and with intent either permanently or temporarily to deprive the owner thereof of his title to or possession of the vehicle, whether with or without intent to steal the same, or any person who is a party or accessory to or an accomplice in the driving or unauthorized taking or stealing is guilty of a public offense, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year or by a fine of not more than five thousand dollars ($5,000) or by both such fine and imprisonment. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of the vehicle by the same or a different person.

SEC. 337. Section 20001 of the Vehicle Code is amended to read:

20001. The driver of any vehicle involved in an accident resulting in injury to any person, other than himself, or death of any person shall immediately stop the vehicle at the scene of the accident and shall fulfill the requirements of Sections 20003 and 20004.

Any person failing to comply with all the requirements of this section under such circumstances is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not to exceed one year or by fine of not to exceed five thousand dollars ($5,000) or by both.

SEC. 338. Section 21464 of the Vehicle Code is amended to read:

21464. (a) No person shall without lawful authority deface, injure, attach any material or substance to, knock down, or remove, nor shall any person shoot at, any official traffic control device, traffic guidepost, traffic signpost, or historical marker placed or erected as authorized or required by law, nor shall any person without such authority deface, injure, attach any material or substance to, or remove, nor shall any person shoot at, any inscription, shield, or insignia on any such device, guide, or marker.

(b) Any willful violation of subdivision (a) which results in injury to, or death of, a person shall be punished by imprisonment in the state prison, or imprisonment in a county jail for a period of not more than six months.

SEC. 339. Section 23101 of the Vehicle Code is amended to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and when so driving do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and when so driving do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year and by fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

SEC. 340. Section 23106 of the Vehicle Code is amended to read:

23106. (a) It is unlawful for any person, while under the influence of any drug, to drive a vehicle upon a highway and when so driving do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of any drug, to drive a vehicle other than on a highway and when so driving do any act, or neglect any duty imposed by law, which act or neglect proximately causes bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year and by fine of not less than two

hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

SEC. 341. Section 23110 of the Vehicle Code is amended to read:

23110. (a) Any person who throws any substance at a vehicle or any occupant thereof on a highway is guilty of a misdemeanor.

(b) Any person who with intent to do great bodily injury maliciously and willfully throws or projects any rock, brick, bottle, metal or other missile, or projects any other substance capable of doing serious bodily harm, or discharges a firearm at such vehicle or occupant thereof is guilty of a felony and upon conviction shall be punished by imprisonment in the state prison.

SEC. 342. Section 42000 of the Vehicle Code is amended to read:

42000. Unless a different penalty is expressly provided by this code, every person convicted of a felony for a violation of any provision of this code shall be punished by a fine of not less than one thousand dollars ($1,000) or more than five thousand dollars ($5,000) or by imprisonment in the state prison or by both such fine and imprisonment.

SEC. 343. Section 1001.5 of the Welfare and Institutions Code is amended to read:

1001.5. Except when authorized by law, or when authorized by the person in charge of an institution or camp administered by the Youth Authority, or by an officer of the institution or camp empowered by the person in charge of the institution or camp to give such authorization, any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any institution or camp, or the grounds belonging to any institution or camp, administered by the Youth Authority, any narcotic, the possession of which is prohibited by Division 10 (commencing with Section 11000) of the Health and Safety Code, any restricted dangerous drug the possession of which is prohibited by Division 10.5 (commencing with Section 11901) of the Health and Safety Code, any alcoholic beverage or any firearm, weapon or explosive of any kind shall be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

SEC. 344. Section 1257 of the Welfare and Institutions Code is amended to read:

1257. Every person confined in the California Youth Training School who escapes or attempts to escape therefrom is guilty of a crime punishable by confinement in a state prison, or in the county jail for not more than one year.

SEC. 344.5. Section 3002 of the Welfare and Institutions Code is amended to read:

3002. Every person committed pursuant to this chapter or former Chapter 11 (commencing with Section 6399) of Title 7 of the Penal Code who escapes or attempts to escape from lawful custody is guilty of a crime punishable by imprisonment in the state prison. This section does not apply to unauthorized absence from a halfway house.

SEC. 345. 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, or in the county jail not to exceed one year.

SEC. 346. Section 7326 of the Welfare and Institutions Code is amended to read:

7326. Any person who willfully assists any judicially committed or remanded patient of a state hospital to escape, to attempt to escape therefrom, or to resist being returned from a leave of absence shall be punished by imprisonment in the state prison, a fine of not more than five thousand dollars ($5,000), or both such imprisonment and fine; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine.

SEC. 347. Section 7330 of the Welfare and Institutions Code is amended to read:

7330. Every person committed to a state hospital pursuant to Section 1370 of the Penal Code who is certified sane by the medical director of the state hospital pursuant to Section 1372 of the Penal Code, and who, prior to being taken by the sheriff from the state hospital in accordance with Section 1372 of the Penal Code, escapes or attempts to escape from the state hospital, or who escapes or attempts to escape while being conveyed from the state hospital, is punishable by imprisonment in the state prison, or in the county jail for a period of not to exceed one year.

SEC. 348. Section 8101 of the Welfare and Institutions Code is amended to read:

8101. Any person who shall knowingly supply, sell, give, or allow possession or control of any deadly weapon as defined in Section 12022 of the Penal Code to any person who is a mental patient in any public or private hospital or institution or on leave of absence from any such hospital or institution shall be punishable by imprisonment in a state prison, or in a county jail for a period of not exceeding one year, by a fine of not exceeding five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 349. Section 14107 of the Welfare and Institutions Code is amended to read:

14107. Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise under this chapter is

punishable by imprisonment in the county jail not longer than one year or in the state prison, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

The enforcement remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy.

SEC. 349.5. It is the intent of the Legislature, if this bill and Senate Bill No. 2097 are both chaptered and shall effective January 1, 1977, both bills amend Section 11371 1975– Health and Safety Code, and this bill is chaptered after 11371 Bill No. 2097, that Section 11371 of the Health and Safety 80 of as amended by Section 1 of Senate Bill No. 2097 be further amended on the operative date of this act in the form set forth in Section 80.5 of this act to incorporate the changes in Section 11371 proposed by this bill. Therefore, Section 80.5 of this act shall become operative only if this bill and Senate Bill No. 2097 are both chaptered and become effective January 1, 1977, both bills amend Section 11371, and this bill is chaptered after Senate Bill No. 2097, in which case Section 80.5 of this act shall become operative on the operative date of this act and Section 80 of this act shall not become operative.

SEC. 350. This act shall be known and may be cited as the Uniform Determinate Sentencing Act of 1976.

SEC. 350.2. Any section of Assembly Bill No. 3303 of the 1975–76 Regular Session which amends, adds, or repeals Section 246 of the Penal Code or Section 23110 of the Vehicle Code as proposed by this act shall prevail over this act. This section shall apply whether Assembly Bill No. 3303 is enacted prior or subsequent to the enactment of this act.

SEC. 350.31. It is the intent of the Legislature, if this bill and Senate Bill No. 624 are both chaptered and become effective January 1, 1977, both bills amend Section 219.2 of the Penal Code, and this bill is chaptered after Senate Bill No. 624, that Section 219.2 of the Penal Code, as amended by Section 14 of Senate Bill No. 624 be further amended on the operative date of this act in the form set forth in Section 143.5 of this act to incorporate the changes in Section 219.2 proposed by this bill. Therefore, Section 143.5 of this act shall become operative only if this bill and Senate Bill No. 624 are both chaptered and become effective January 1, 1977, both bills amend Section 219.2, and this bill is chaptered after Senate Bill No. 624, in which case Section 143.5 of this act shall become operative on the operative date of this act and Section 143 of this act shall not become operative.

SEC. 350.32. It is the intent of the Legislature, if this bill and Senate Bill No. 624 are both chaptered and become effective January 1, 1977, both bills amend Section 221 of the Penal Code, and this bill is chaptered after Senate Bill No. 624, that Section 221 of the Penal Code, as amended by Section 15 of Senate Bill No. 624 be further amended on the operative date of this act in the form set forth in Section 145.5 of this act to incorporate the changes in Section 221 proposed by this bill. Therefore, Section 145.5 of this act shall become

operative only if this bill and Senate Bill No. 624 are both chaptered and become effective January 1, 1977, both bills amend Section 221, and this bill is chaptered after Senate Bill No. 624, in which case Section 145.5 of this act shall become operative on the operative date of this act and Section 145 of this act shall not become operative.

SEC. 350.34. It is the intent of the Legislature, if this bill and Senate Bill No. 624 are both chaptered and become effective January 1, 1977, both bills amend Section 591 of the Penal Code, and this bill is chaptered after Senate Bill No. 624, that Section 591 of the Penal Code, as amended by Section 20 of Senate Bill No. 624 be further amended on the operative date of this act in the form set forth in Section 248.5 of this act to incorporate the changes in Section 591 proposed by this bill. Therefore, Section 248.5 of this act shall become operative only if this bill and Senate Bill No. 624 are both chaptered and become effective January 1, 1977, both bills amend Section 591, and this bill is chaptered after Senate Bill No. 624, in which case Section 248.5 of this act shall become operative on the operative date of this act and Section 248 of this act shall not become operative.

SEC. 350.4. It is the intent of the Legislature that Section 190 of the Penal Code as set forth in Section 133 of this act shall become operative only if this bill and Assembly Bill No. 4321 are both chaptered, in which case Section 190.5 of the Penal Code as added by Section 133.5 of this act is repealed.

SEC. 351. Any section of Assembly Bill No. 3683 of the 1975–76 Regular Session, if enacted, which amends, adds, or repeals a section of the Election Code proposed by this act, shall prevail over this act whether such act is enacted prior to or subsequent to the enactment of this act.

SEC. 351.5. This act shall become operative July 1, 1977.

SEC. 352. Any section of A.B. 3225 which amends Section 12420 of the Penal Code, any section of A.B. 3140 which amends Section 148.1 of the Penal Code, and any section of A.B. 4285 which amends Section 6330 of the Welfare and Institutions Code if enacted by the Legislature at the session at which this act is enacted and proposes amendments to any such section, shall prevail over this act. This section shall apply whether such other act is enacted prior or subsequent to the enactment of this act.

SEC. 353. Section 150.1 of this act shall be operative only if this bill and Senate Bill No. 931 are both chaptered and both bills add Section 243.1 to the Penal Code, in which case such section as added by Section 3 of Senate Bill No. 931 shall not be operative.

SEC. 354. It is the intent of the Legislature, if this bill and Assembly Bill No. 3140 are both chaptered and become effective January 1, 1977, both bills amend Section 148.1 of the Penal Code, and this bill is chaptered after Assembly Bill No. 3140, that Section 148.1 of the Penal Code, as amended by Section 1 of Assembly Bill No. 3140 be further amended on the operative date of this act in the form set forth in Section 121.5 of this act to incorporate the changes in Section 148.1 proposed by this bill. Therefore, Section 121.5 of this act shall

become operative only if this bill and Assembly Bill No. 3140 are both chaptered and become effective January 1, 1977, both bills amend Section 148.1, and this bill is chaptered after Assembly Bill No. 3140, in which case Section 121.5 of this act shall become operative on the operative date of this act and Section 121 of this act shall not become operative.

SEC. 355. There are state-mandated local costs in this act in the 1977–78 fiscal year, and subsequent fiscal years, that require reimbursement under Section 2231 of the Revenue and Taxation Code which can be handled in the regular state budget process.

SEC. 356. It is the intent of the Legislature that if this bill and Senate Bill No. 685 or Senate Bill No. 624, or both, are chaptered and become effective January 1, 1977, each of the bills amend Section 241 of the Penal Code, 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. 685 are both chaptered and become effective January 1, 1977, both bills amend Section 241 of the Penal Code, but Senate Bill No. 624 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 685, Section 241 of the Penal Code as amended by Section 1 of Senate Bill No. 685 be further amended on the operative date of this act in the form set forth in Section 149.2 of this act to incorporate the changes proposed by this bill. Therefore, Section 149.2 of this act shall become operative only if this bill and Senate Bill No. 685 are both chaptered and become effective January 1, 1977, both bills amend Section 241, this bill is chaptered after Senate Bill No. 685, and Senate Bill No. 624 is not chaptered or as chaptered does not amend that section, in which case Sections 149, 149.3, and 149.5 of this act shall not become operative.

(2) If this bill and Senate Bill No. 624 are both chaptered and become effective January 1, 1977, both bills amend Section 241 of the Penal Code, but Senate Bill No. 685 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 624, Section 241 of the Penal Code as amended by Section 16 of Senate Bill No. 624 be further amended on the operative date of this act in the form set forth in Section 149.3 of this act to incorporate the changes proposed by this bill. Therefore, Section 149.3 of this act shall become operative only if this bill and Senate Bill No. 624 are both chaptered and become effective January 1, 1977, both bills amend Section 241, this bill is chaptered after Senate Bill No. 624, and Senate Bill No. 685 is not chaptered or as chaptered does not amend that section, in which case Sections 149, 149.2, and 149.5 of this act shall not become operative.

(3) If this bill and Senate Bill No. 685 and Senate Bill No. 624 are all chaptered and become effective January 1, 1977, all three bills amend Section 241 of the Penal Code, and this bill is chaptered after Senate Bill No. 685 and Senate Bill No. 624, that Section 241 of the Penal Code as amended by Section 1 of Senate Bill No. 685 and

Section 16 of Senate Bill No. 624 be further amended on the operative date of this act in the form set forth in Section 149.5 of this act to incorporate the changes proposed by this bill. Therefore, Section 149.5 of this act shall become operative only if this bill and Senate Bill No. 685 and Senate Bill No. 624 are all chaptered and become effective January 1, 1977, all three bills amend Section 241 of the Penal Code, and this bill is chaptered after Senate Bill No. 685 and Senate Bill No. 624, in which case Sections 149, 149.2, and 149.3 of this act shall not become operative.

SEC. 357. It is the intent of the Legislature, if this bill and Senate Bill No. 685 are both chaptered and become effective January 1, 1977, both bills amend Section 243 of the Penal Code, and this bill is chaptered after Senate Bill No. 685, that Section 243 of the Penal Code, as amended by Section 3 of Senate Bill No. 685 be further amended on the operative date of this act in the form set forth in Section 150.5 of this act to incorporate the changes in Section 243 proposed by this bill. Therefore, Section 150.5 of this act shall become operative only if this bill and Senate Bill No. 685 are both chaptered and become effective January 1, 1977, both bills amend Section 243, and this bill is chaptered after Senate Bill No. 685, in which case Section 150.5 of this act shall become operative on the operative date of this act and Section 150 of this act shall not become operative.

SEC. 358. It is the intent of the Legislature, if this bill and Senate Bill No. 685 are both chaptered and become effective January 1, 1977, both bills amend Section 245 of the Penal Code, and this bill is chaptered after Senate Bill No. 685, that Section 245 of the Penal Code, as amended by Section 5 of Senate Bill No. 685 be further amended on the operative date of this act in the form set forth in Section 152.5 of this act to incorporate the changes in Section 245 proposed by this bill. Therefore, Section 152.5 of this act shall become operative only if this bill and Senate Bill No. 685 are both chaptered and become effective January 1, 1977, both bills amend Section 245, and this bill is chaptered after Senate Bill No. 685, in which case Section 152.5 of this act shall become operative on the operative date of this act and Section 152 of this act shall not become operative.

CHAPTER 1140

An act to amend Section 12020 of the Penal Code, and to repeal Section 2008 of the Fish and Game Code, relating to weapons.

[Approved by Governor September 20, 1976 Filed with Secretary of State September 21, 1976]

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

SECTION 1. Section 2008 of the Fish and Game Code is repealed.

SEC. 2. 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 cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any ammunition which contains or consists of any flechette dart, or 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.

(4) Any antique firearm. For purposes of this paragraph the term "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional centerfire ignition with fixed ammunition, and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system.

(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 any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition 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 manufacture, 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.

(3) As used in this section a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up approximately five-sixteenths inch of the body.

SEC. 3. 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 cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any ammunition which contains or consists of any flechette dart, or 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.

(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.

(4) Any antique firearm. For purposes of this paragraph the term "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional centerfire ignition with fixed ammunition, and manufactured in or before 1898, including any

matchlock, flintlock, percussion cap, or similar type of ignition system.

(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.

(d) (1) As used in this section a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition 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 manufacture, 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.

(3) As used in this section a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths inch of the body.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 12020 of the Penal Code, and this bill is chaptered after Senate Bill No. 42, that Section 12020 of the Penal Code, as amended by Section 2 of this act shall remain operative only until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Section 12020 of the Penal Code as amended by Section 2 of this act be further amended in the form set forth in Section 3 of this act to incorporate the changes in Section 12020 proposed by Senate Bill No. 42. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills amend Section 12020, and this bill is chaptered after Senate Bill No. 42, in

which case Section 3 of this act shall become operative on the operative date of Senate Bill No. 42.

SEC. 5. It is the intention of the Legislature that the words "any firearm which is not immediately recognizable as a firearm," as used in subdivision (a) of Section 12020 of the Penal Code shall not be interpreted to include a weapon which is capable of inflicting an electrical charge of such magnitude that the victim can be or is temporarily immobilized, a stungun, a taser, or other such instrument.

SEC. 6. 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 1141

An act to amend Section 30631 of the Public Utilities Code, relating to transit districts.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 30631 of the Public Utilities Code is amended to read:

30631. The district may acquire, construct, own, operate, control, or use rights-of-way, rail lines, monorails, buslines, stations, platforms, switches, yards, terminals, parking lots, and any and all other facilities necessary or convenient for rapid transit service within or partly without the district, underground, upon, or above the ground and under, upon, or over public streets, highways, bridges, or other public ways or waterways, together with all physical structures necessary or convenient for the access of persons and vehicles thereto, and may acquire or contract for any interest in or rights to the use or joint use of any or all of the foregoing; provided, that installations in state freeways shall be subject to the approval of the Department of Transportation and installations in other state highways shall be subject to Article 2 (commencing with Section 670), Chapter 3, Division 1 of the Streets and Highways Code.

It shall be presumed that the use of the streets, highways, freeways, and other public places by the district for any of the purposes permitted herein constitutes no greater burden on adjoining properties than the uses existing as of August 22, 1964. In the event

facilities, other than state highways or freeways referred to above, (including, but not limited to, streets, highways, pipelines, sewers, water mains, storm drains, poles, communications wires, and electric transmission wires) of another public agency, of the state, or of a private owner must necessarily be relocated, replaced, or altered in order for the district to construct or operate its system, or in the event the construction or operation by the district of its system makes necessary the relocation, replacement, or alteration of any such facilities of another public agency, of the state, or of a private owner in order to maintain the functioning of such facilities at their previous level of service, such facilities shall be relocated, replaced, or altered with reasonable promptness by the respective public corporation, state, or private owner and the district shall by prior agreement reimburse such public corporation, state, or private owner for the actual cost necessarily incurred in such relocation, replacement, or alteration.

The district may enter into an agreement with any city or county having jurisdiction over the street or highway involved, and, as may be provided in such an agreement, may close any such city street or county highway at or near the point of its interception with any district facility or may make provision for carrying such city street or county highway over or under or to a connection with such district facility and may do any and all work on such city street or county highway as is necessary therefor. No city street or county highway shall be closed, either directly or indirectly, by the construction of district facilities except pursuant to such an agreement or while temporarily necessary during the construction of district facilities if the district has first obtained a temporary street or highway closing permit.

CHAPTER 1142

An act to add Section 19612.5 to the Business and Professions Code, relating to horseracing.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 19612.5 is added to the Business and Professions Code, to read:

19612.5. Notwithstanding any provision to the contrary in this chapter, every association which conducts a racing meeting pursuant to Sections 19549, 19549.5, 19549.6, and 19549.7 and which conducts a racing meeting at which the average daily handle is four hundred thousand dollars ($400,000) or less, shall pay a cumulative daily license fee at the following rates which shall apply to that portion of

each licensee's handle coming within the indicated brackets:

Daily Handle	License Fee Rate
$100,000 and under	2.00 percent of the handle
$100,001 to $200,000	$2,000 plus 2.50 percent of the handle in excess of $100,000
$200,001 to $300,000	$4,500 plus 3.00 percent of the handle in excess of $200,000
$300,001 to $350,000	$7,500 plus 3.50 percent of the handle in excess of $300,000
Over $350,000	$9,250 plus 4.00 percent of the handle in excess of $350,000

The amount remaining after deduction of the state license fee shall be distributed as commissions and purses.

The license fee rates provided for herein shall apply to any additional racing weeks allocated by the board to a qualifying association pursuant to Section 19531.

Every association which conducts a racing meeting pursuant to Section 19549 shall, in addition, deduct from its parimutuel pools the amount specified in subdivision (b) of Section 19614 as amended by Chapter 354 of the Statutes of 1976.

SEC. 2. The provisions of this act shall be effective the years 1977 through 1980.

CHAPTER 1143

An act to add Section 23306.5 to the Government Code, relating to the formation of counties.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 23306.5 is added to the Government Code, to read:

23306.5. Notwithstanding the provisions of subdivision (c) of Section 23306, a county may be created from the territory of Nevada County provided that the territory which is proposed to be transferred from such county does not exceed 25 percent of the total territory of such county.

SEC. 2. The Legislature hereby finds and declares that because of the unique geographical, economic, and transportation

characteristics of the Tahoe Basin, general law would not apply to the formation of a new county from the territory of Nevada County.

CHAPTER 1144

An act to add Section 53200.5 to the Government Code, relating to public employees.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 53200.5 is added to the Government Code, to read:

53200.5. Employees of an agency or entity created for the joint exercise of powers pursuant to the provisions of Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, are county employees for purposes of this article when the county is a party to the joint exercise of powers agreement, subject to the approval of the board of supervisors and the governing body of the joint powers agency or entity.

CHAPTER 1145

An act to amend Sections 11580, 11580.05, 11580.1, and 11580.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 11580 of the Insurance Code is amended to read:

11580. A policy insuring against losses set forth in subdivision (a) shall not be issued or delivered to any person in this state unless it contains the provisions set forth in subdivision (b). Such policy, whether or not actually containing such provisions, shall be construed as if such provisions were embodied therein.

(a) Unless it contains such provisions, the following policies of insurance shall not be thus issued or delivered:

(1) Against loss or damage resulting from liability for injury suffered by another person other than (i) a policy of workers' compensation insurance, or (ii) a policy issued by a nonadmitted Mexican insurer solely for use in the Republic of Mexico.

(2) Against loss of or damage to property caused by draught

03099 297485 653

animals or any vehicle, and for which the insured is liable, other than a policy which provides insurance in the Republic of Mexico, issued or delivered in this state by a nonadmitted Mexican insurer.

(b) Such policy shall not be thus issued or delivered to any person in this state unless it contains all the following provisions:

(1) A provision that the insolvency or bankruptcy of the insured will not release the insurer from the payment of damages for injury sustained or loss occasioned during the life of such policy.

(2) A provision that whenever judgment is secured against the insured or the executor or administrator of a deceased insured in an action based upon bodily injury, death, or property damage, then an action may be brought against the insurer on the policy and subject to its terms and limitations, by such judgment creditor to recover on the judgment.

SEC. 1.5. Section 11580 of the Insurance Code is amended to read:

11580. A policy insuring against losses set forth in subdivision (a) shall not be issued or delivered to any person in this state unless it contains the provisions set forth in subdivision (b). Such policy, whether or not actually containing such provisions, shall be construed as if such provisions were embodied therein.

(a) Unless it contains such provisions, the following policies of insurance shall not be thus issued or delivered:

(1) Against loss or damage resulting from liability for injury suffered by persons other than insureds other than (i) a policy of workers' compensation insurance, or (ii) a policy issued by a nonadmitted Mexican insurer solely for use in the Republic of Mexico.

(2) Against loss of or damage to property caused by draught animals or any vehicle, and for which the insured is liable, other than a policy which provides insurance in the Republic of Mexico, issued or delivered in this state by a nonadmitted Mexican insurer.

(b) Such policy shall not be thus issued or delivered to any person in this state unless it contains all the following provisions:

(1) A provision that the insolvency or bankruptcy of the insured will not release the insurer from the payment of damages for injury sustained or loss occasioned during the life of such policy.

(2) A provision that whenever judgment is secured against the insured or the executor or administrator of a deceased insured in an action based upon bodily injury, death, or property damage, then an action may be brought against the insurer on the policy and subject to its terms and limitations, by such judgment creditor to recover on the judgment.

SEC. 2. Section 11580.05 of the Insurance Code is amended to read:

11580.05. The Legislature declares that the public policy of this state in regard to provisions authorized or required to be included in policies affording automobile liability insurance or motor vehicle liability insurance issued or delivered in this state shall be as stated

in this article, that this article expresses the total public policy of this state respecting the content of such policies, and that no provision of this article or of the Vehicle Code shall apply to policies affording automobile liability insurance or motor vehicle liability insurance in the Republic of Mexico issued or delivered in this state by a nonadmitted Mexican insurer. The Legislature further declares that it is the intent of the Legislature that the requirements set forth in Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of the Vehicle Code shall apply only to an owner's policy or operator's policy of liability insurance certified as provided in Section 16431 of the Vehicle Code as proof of ability to respond in damages, and that the requirements set forth in Article 4 (commencing with Section 11620) of Chapter 1 of Part 3 of Division 2 of the Insurance Code shall apply only to automobile liability insurance policies issued under the California Assigned Risk Plan. Except as provided above, any other policy issued or delivered in this state affording liability insurance with respect to ownership, maintenance, or use of a motor vehicle shall comply with the requirements set forth in Sections 11580, 11580.1, and 11580.2.

SEC. 3. Section 11580.1 of the Insurance Code is amended to read:

11580.1. (a) No policy of automobile liability insurance described in Section 16054 of the Vehicle Code covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be issued or delivered in this state on or after the effective date of this section unless it contains the provisions set forth in subdivision (b). However, none of the requirements of subdivision (b) shall apply to the insurance afforded under any such policy (1) to the extent that such insurance exceeds the limits specified in subdivision (a) of Section 16056 of the Vehicle Code, or (2) if such policy contains an underlying insurance requirement, or provides for a retained limit of self-insurance, equal to or greater than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(b) Every policy of automobile liability insurance to which subdivision (a) applies shall contain all of the following provisions:

(1) Coverage limits not less than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(2) Designation by explicit description of, or appropriate reference to, the motor vehicles or class of motor vehicles to which coverage is specifically granted.

(3) Designation by explicit description of the purposes for which coverage for such motor vehicles is specifically excluded.

(4) Provision affording insurance to the named insured with respect to any motor vehicle covered by such policy, and to the same extent that insurance is afforded to the named insured, to any other person using, or legally responsible for the use of, such motor vehicle, provided such use is by the named insured or with his permission, express or implied, and within the scope of such permission, except that: (i) with regard to insurance afforded for the loading or

unloading of any such motor vehicle, the insurance may be limited to apply only to the named insured, a relative of the named insured who is a resident of the named insured's household, a lessee or bailee of the motor vehicle, or an employee of any such person; and (ii) the insurance afforded to any person other than the named insured need not apply to: (A) any employee with respect to bodily injury sustained by a fellow employee injured in the scope and course of his employment, or (B) any person, or to any agent or employee thereof, employed or otherwise engaged in the business of selling, repairing, servicing, delivering, testing, road testing, parking, or storing automobiles with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith.

(c) In addition to any exclusion as provided in paragraph (3) of subdivision (b), the insurance afforded by any such policy of automobile liability insurance to which subdivision (a) applies may, by appropriate policy provision, be made inapplicable to any or all of the following:

(1) Liability assumed by the insured under contract.

(2) Liability for bodily injury or property damage caused intentionally by or at the direction of the insured.

(3) Liability imposed upon or assumed by the insured under any workers' compensation law.

(4) Liability for bodily injury to any employee of the insured arising out of and in the course of his employment.

(5) Liability for bodily injury to an insured.

(6) Liability for damage to property owned, rented to, transported by, or in charge of, an insured.

(7) Liability for any bodily injury or property damage with respect to which insurance is or can be afforded under a nuclear energy liability policy.

(8) Any motor vehicle or class of motor vehicles, as described or designated in the policy, with respect to which coverage is explicitly excluded, in whole or in part.

The term "the insured" as used in paragraphs (1), (2), (3), and (4) of this subdivision shall mean only that insured under the policy against whom the particular claim is made or suit brought. The term "an insured" as used in paragraphs (5) and (6) of this subdivision shall mean any insured under the policy.

(d) Notwithstanding the provisions of paragraph (4) of subdivision (b), or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9, of the Vehicle Code, the insurer and any named insured may, by the terms of any policy of automobile liability insurance to which subdivision (a) applies, or by a separate writing relating thereto, agree as to either or both of the following limitations, such agreement to be binding upon every insured to whom such policy applies and upon every third party claimant:

(1) That coverage under such policy shall not apply nor accrue to

03099 297530 662

the benefit of any insured or any third party claimant while any insured motor vehicle is being used or operated by a natural person or persons designated by name. Such agreement shall remain in force as long as the policy remains in force, and shall apply to any continuation, renewal, or replacement of such policy by the named insured, or reinstatement of such policy within 30 days of any lapse thereof.

(2) That with regard to any such policy issued to a named insured engaged in the business of selling, repairing, servicing, delivering, testing, road testing, parking, or storing automobiles, coverage shall not apply to any person other than the named insured or his agent or employee, except to the extent that the limits of liability of any other valid and collectible insurance available to such person are not equal to the limits of liability specified in subdivision (a) of Section 16056 of the Vehicle Code.

(e) Nothing in this section or in Section 16054 or 16450 of the Vehicle Code shall be construed to constitute a homeowner's policy, personal and residence liability policy, personal and farm liability policy, general liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage as an "automobile liability policy" within the meaning of Section 16054 of the Vehicle Code, or as a "motor vehicle liability policy" within the meaning of Section 16450 of the Vehicle Code, nor shall any provision of this section apply to a policy which provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle in the Republic of Mexico issued or delivered in this state by a nonadmitted Mexican insurer, notwithstanding that any such policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(f) On and after January 1, 1976, no policy of automobile liability insurance described in subdivision (a) shall be issued, amended, or renewed in this state if it contains any provision which expressly or impliedly excludes from coverage under such policy the operation or use of an insured motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing transportation to senior citizens or physically or mentally handicapped persons. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of such services at a rate not to exceed fifteen cents ($0.15) per mile actually driven. As used in this section, "senior citizen" means a person 60 years of age or older.

(g) Notwithstanding the provisions of paragraph (4) of subdivision (b) of this section, or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or

03099 297540 664

Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, a Mexican nonadmitted insurer and any named insured may, by the terms of any policy of automobile insurance for use solely in the Republic of Mexico to which subdivision (a) applies, or by a separate writing relating thereto, agree to the limitation that coverage under such policy shall not apply to any person riding in or occupying a vehicle owned by the insured or driven by another person with the permission of the insured. Such agreement shall be binding upon every insured to whom any such policy applies and upon any third party claimant.

(h) No policy of automobile insurance which provides insurance covering liability arising out of the ownership, maintenance or use of any motor vehicle solely in the Republic of Mexico issued by a nonadmitted Mexican insurance company, shall be subject to, or provide coverage for, those coverages provided in Section 11580.2.

SEC. 4. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, his heirs or his legal representative for all sums within such limits which he or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) with respect to a natural person or persons designated by name when operating a motor vehicle. Either of such deletions by any named insured shall be binding upon every insured to whom such policy or endorsement provisions apply while such policy is in force, and shall continue to be so binding with respect to any continuation, renewal, or replacement of such policy by the named insured, or with respect to reinstatement of such policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or with respect to one or more natural persons designated by name when operating a motor vehicle. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the financial responsibility limits which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured."

Such agreement may contain additional statements not in derogation of or conflict with the foregoing. The execution of such agreement shall relieve the insurer of liability under this section while such agreement remains in effect.

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above; as used in (a) above the term "insured" means the named insured and the spouse of the named insured and relatives of either while residents of the same household while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household while being operated by the named insured or his spouse if a resident of the same household, but the term "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance. The term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown,

03099 297580 672

provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of such automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either to the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his legal representative has or the insured's heirs have a cause of action arising out of such accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. The term "uninsured motor vehicle" shall not include an automobile owned by the named insured or any resident of the same household or self-insured within the meaning of the Safety Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

The term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of such accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of such person against the insolvent insurer.

(c) The insurance coverage provided for in this section does not apply:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from an automobile other than the described automobile if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any

action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (c) (2), the policy or endorsement may provide that if the insured has insurance available to him under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bears to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him, the damages which he shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under such automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his insurer, his legal representative, or his heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workmen's compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, such claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workmen's compensation claim; (ii) such claim has proceeded to findings and award or settlement on all issues

reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to such determinations, and all rights, remedies, obligations, liabilities and procedures set forth in such Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in such Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of such Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under such Article 3 with respect to the same accident, subject, however, to the right of such court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of subparagraph (a) (4) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in subparagraph (b) (2) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the

rights of the insured to whom such claim was paid against any person causing such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver or rights to which he may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him under any workmen's compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction, or

(2) Agreement as to the amount due under the policy has been concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jursidiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to such injury or death. Failure of the insurer to provide such written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date such written notice is actually given.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing transportation to senior citizens or physically or

mentally handicapped persons. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of such services at a rate not to exceed fifteen cents ($0.15) per mile actually driven. As used in this section, "senior citizen" means a person 60 years of age or older. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

SEC. 5. Sections 1 to 4, inclusive, of this act are enacted in response to the court case of Contreras v. America, Compañía General de Seguros, S.A., 48 Cal. App. 3d 270, and it is the intent of the Legislature in enacting this act to reverse the effect of the Contreras case, and to provide that certain provisions of any policy which provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle in the Republic of Mexico issued by a Mexican insurance company shall not be subject to the effect of the Contreras case.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 3525 are both chaptered and become effective January 1, 1977, both bills amend Section 11580 of the Insurance Code, and this bill is chaptered after Assembly Bill No. 3525, that the amendments to Section 11580 proposed by both bills be given effect and incorporated in Section 11580 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 3525 are both chaptered and become effective January 1, 1977, both amend Section 11580, and this bill is chaptered after Assembly Bill No. 3525, in which case Section 1 of this act shall not become operative.

CHAPTER 1146

An act to amend Sections 10338 and 15023 of the Elections Code, relating to elections.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 10338 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

10338. If the number of offices and measures to be voted upon at an election cannot be accommodated on one ballot card, the clerk may, at his discretion, place part of the ballot upon more than one ballot card or he may place part of the ballot upon the ballot card and the remainder upon paper; provided that a single ballot measure or the candidates for a single office may not be so split.

SEC. 2. Section 15023 of the Elections Code, as added by Chapter

246 of the Statutes of 1976, is amended to read:

15023. The governing board may adopt for use at elections any kind of voting system or any combination of voting systems or any combination of a voting system and paper ballots provided that the use of the voting system or systems involved has been approved by the commission or specifically authorized by law. The voting system or systems may be used at any or all elections held in any county, city, or any of their political subdivisions for voting, registering, and counting votes cast. When more than one voting system is used to count ballots, the names of candidates shall, insofar as possible, be placed upon the primary voting system. When more than one voting system or a combination of a voting system and paper ballots is used to count ballots, a single ballot measure or the candidates for a single office may not be split between voting systems or between a voting system and paper ballots.

CHAPTER 1147

An act to amend Sections 7442, 7444, 7445, and 7446 of, to add Section 7437.4 to, and to repeal Section 7443 of, the Business and Professions Code, relating to cosmetology, and making an appropriation therefor.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 7437.4 is added to the Business and Professions Code, to read:

7437.4. The board shall adopt regulations providing for an inactive license status commencing with the 1978 license renewal period and each subsequent renewal period.

SEC. 1.5. Section 7442 of the Business and Professions Code is amended to read:

7442. The amount of the fees required by this chapter relating to licenses for cosmetologists, electrologists, manicurists, junior operators, junior electrologists, cosmetology instructors, electrology instructors, and provisional instructors shall be set by the board at not more than the amounts shown in the following schedule:

(a) Cosmetologist application, examination, and initial license fee shall be not more than thirty-two dollars ($32).

(b) Electrologist application, examination, and initial license fee shall be not more than thirty-two dollars ($32).

(c) Manicurist application, examination, and initial license fee shall be not more than twenty-one dollars ($21).

(d) Junior operator application and license fee shall be not more than eighteen dollars ($18).

(e) Junior electrologist application and initial license fee shall be not more than eighteen dollars ($18).

(f) Cosmetology instructor application, examination, and initial license fee shall be not more than thirty-eight dollars ($38).

(g) Electrology instructor application, examination, and initial license fee shall be not more than thirty-five dollars ($35).

(h) Provisional instructor application and license fee shall be not more than thirty-eight dollars ($38).

(i) Cosmetologist, electrologist, manicurist, cosmetology instructor, and electrology instructor license renewal fees shall be not more than twenty dollars ($20).

(j) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.

SEC. 2. Section 7443 of the Business and Professions Code is repealed.

SEC. 3. Section 7444 of the Business and Professions Code is amended to read:

7444. The amount of the fees payable under this chapter relating to licenses to operate a cosmetological establishment is as follows:

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

(b) The renewal fee shall be set by the board at not more than twenty dollars ($20).

(c) The delinquency fee is 50 percent of the renewal fee in effect on the date of renewal.

SEC. 4. Section 7445 of the Business and Professions Code is amended to read:

7445. The amount of the fees required by this chapter relating to licenses to conduct schools of cosmetology or electrology shall be set by the board at not more than the amounts shown in the following schedule:

(a) The application fee for a school of cosmetology or a school of electrology shall be not more than ninety dollars ($90).

(b) The inspection fee for a school of cosmetology or a school of electrology shall be not more than ninety dollars ($90).

(c) The annual registration fee for a school of cosmetology or a school of electrology shall be not more than two hundred twenty-five dollars ($225).

(d) The delinquency fee is twenty-five dollars ($25).

SEC. 5. Section 7446 of the Business and Professions Code is amended to read:

7446. The enrollment fee prescribed by Section 7396.8 shall be set by the board annually at not more than thirteen dollars ($13).

SEC. 6. Section 7442 of the Business and Professions Code is amended to read:

7442. The amount of the fees required by this chapter relating to licenses for cosmetologists, electrologists, manicurists, cosmeticians, junior operators, junior electrologists, cosmetology instructors, electrology instructors, and provisional instructors shall be set by the board at not more than the amounts shown in the following schedule:

(a) Cosmetologist application, examination and initial license fee shall be not more than thirty-two dollars ($32).

(b) Electrologist application, examination and initial license fee shall be not more than thirty-two dollars ($32).

(c) Manicurist application, examination and initial license fee shall be not more than twenty-one dollars ($21).

(d) Junior operator application and license fee shall be not more than eighteen dollars ($18).

(e) Junior electrologist application and initial license fee shall be not more than eighteen dollars ($18).

(f) Cosmetology instructor application, examination and initial license fee shall be not more than thirty-eight dollars ($38).

(g) Electrology instructor application, examination and initial license fee shall be not more than thirty-five dollars ($35).

(h) Provisional instructor application and license fee shall be not more than thirty-eight dollars ($38).

(i) Cosmetologist, electrologist, manicurist, cosmetician, cosmetology instructor and electrology instructor license renewal fees shall be not more than twenty dollars ($20).

(j) Cosmetician application, examination, and initial license fee shall be not more than thirty-two dollars ($32).

(k) Cosmetician registration fee shall be not more than ten dollars ($10).

(*l*) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.

SEC. 7. It is the intent of the Legislature, if this bill and Assembly Bill No. 2386 are both chaptered and amend Section 7442 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 2386, that the amendments to Section 7442 proposed by both bills be given effect and incorporated in Section 7442 in the form set forth in Section 6 of this act. Therefore, Section 6 of this act shall become operative only if this bill and Assembly Bill No. 2386 are both chaptered, both amend Section 7442, and Assembly Bill No. 2386 is chaptered before this bill, in which case Section 1.5 of this act shall not become operative.

CHAPTER 1148

An act to amend Sections 19491, 19567, and 19612 of, and to add Sections 19413.2, 19413.4, 19425, 19491.7, 19566.6, and 19619 to, the Business and Professions Code, relating to horseracing, and making an appropriation therefor.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 19413.2 is added to the Business and Professions Code, to read:

19413.2. "Standardbred breeder" means the owner of the dam of a standardbred foal at the time of foaling.

SEC. 2. Section 19413.4 is added to the Business and Professions Code, to read:

19413.4. "Registered California standardbred stallion" means a stallion that is registered with the United States Trotting Association and listed in the official California Standardbred Stallions Registry maintained by the California Horse Racing Board or its designee as provided for in Section 19566.6.

SEC. 3. Section 19491 of the Business and Professions Code is amended to read:

19491. (a) Subject to the provisions of Section 19491.5 and 19491.6, and except as provided in Section 19491.7, every association which conducts a racing meeting shall pay as an additional license fee one-half of the breakage deducted pursuant to Section 19597 on the first twenty-four million dollars ($24,000,000) or less of the total amount handled in the parimutuel pools relating to its meeting and all of the breakage deducted on amounts so handled in excess of twenty-four million dollars ($24,000,000).

(b) Every association which conducts a racing meeting shall distribute the remaining one-half of the breakage deducted pursuant to Section 19597 on the first twenty-four million dollars ($24,000,000) or less of the total amount handled in the parimutuel pools relating to the meeting as additional purses and for additional commissions in the same proportion, as between purses and commissions, as provided in Sections 19611 and 19612.

Payment of the fee shall be made weekly on account during each meeting, and the amount attributable to breakage shall be reported as a separate item.

SEC. 4. Section 19491.7 is added to the Business and Professions Code, to read:

19491.7. Notwithstanding any other provision of law, all breakage deducted pursuant to Section 19597 by an association licensed to conduct harness racing from January 1, 1977, until December 31, 1986, shall be used to fund the California Standardbred Sires Stakes

Program and to increase purses as set forth in subdivision (f) of Section 19619 of Article 9.5 of this chapter. From January 1, 1987, and thereafter, one-half of all breakage deducted pursuant to Section 19597 by an association licensed to conduct harness racing shall be used to fund the California Standardbred Sires Stakes Program and to increase purses as set forth in subdivision (f) of Section 19619 of Article 9.5 of this chapter. The remaining one-half of the breakage deducted pursuant to Section 19597, shall be distributed as provided in Sections 19491, 19491.5, and 19491.6.

SEC. 5. Section 19566.6 is added to the Business and Professions Code, to read:

19566.6. The registry for registered California standardbred stallions shall be maintained by the California Horse Racing Board or its designee and shall be recognized as the sole official registry for stallions whose offspring are eligible to compete in the California Standardbred Sires Stakes Program.

SEC. 6. Section 19567 of the Business and Professions Code is amended to read:

19567. Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a sum equal to 10 percent of the first money of every purse won by a California-bred horse at a horserace meeting shall be paid by the licensee conducting the meeting to the breeder of such animal. This provision shall apply to any California-bred standardbred horse that is foaled on or after the first day of November, 1977 for all races except the California Standardbred Sire Stake races and all futurities.

SEC. 7. Section 19612 of the Business and Professions Code is amended to read:

19612. (a) With respect to racing other than thoroughbred, every association which conducts a meeting shall distribute on all money not in excess of twenty million dollars ($20,000,000) handled in its parimutuel pools for such racing the base percentage amounts as follows: 6.10 percent license fee; 3.91 percent purses; and 5.74 percent commission.

(b) With respect to racing other than thoroughbred racing, every association shall distribute on the amount handled in excess of twenty million dollars ($20,000,000) in addition to the base rate, the following amounts:

(1) As to those associations handling more than twenty million dollars ($20,000,000) but not more than forty million dollars ($40,000,000), on such amount as exceeds twenty million dollars ($20,000,000): 5.70 percent license fee; 4.07 percent purses; and 5.98 percent commission.

(2) As to those associations handling more than forty million dollars ($40,000,000) but not more than seventy-five million dollars ($75,000,000), on such amount as exceeds twenty million dollars ($20,000,000): 6.55 percent license fee; 3.72 percent purses; and 5.48 percent commission.

(3) As to those associations handling more than seventy-five

million dollars ($75,000,000) but not more than one hundred twenty million dollars ($120,000,000), on such amount as exceeds twenty million dollars ($20,000,000): 6.85 percent license fee; 3.60 percent purses; and 5.30 percent commission.

(4) As to those associations handling more than one hundred twenty million dollars ($120,000,000) but not more than one hundred eighty million dollars ($180,000,000) on such amount as exceeds twenty million dollars ($20,000,000): 7.15 percent license fee; 3.48 percent purses; and 5.12 percent commission.

(5) As to those associations handling more than one hundred eighty million dollars ($180,000,000) on such amount as exceeds twenty million dollars ($20,000,000): 7.45 percent license fee; 3.36 percent purses; and 4.94 percent commission.

(c) With respect to harness racing an additional 1.00 percent of the parimutuel pool shall be retained and shall be distributed equally between license fees, purses, and commissions from January 1, 1977, until December 31, 1986. From January 1, 1987, and thereafter, the additional retention from harness racing parimutuel pools shall be decreased to 0.5 percent and shall be distributed equally between license fees, purses, and commissions.

SEC. 8. Section 19619 is added to the Business and Professions Code, to read:

19619. (a) Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a California Standardbred Sires Stakes Program is hereby established for standardbred horses bred in the State of California.

(b) Horses eligible to race in the California Standardbred Sires Stakes Program shall be the offspring of any registered California standardbred stallion standing in California during an entire breeding season and shall be the foals of mares that remain in California from the time that they conceive until their foal is dropped and weaned.

(c) Responsibility for the California Standardbred Sires Stakes Program shall lie with the California Horse Racing Board. In carrying out its responsibilities for the California Standardbred Sires Stakes Program the Chairman of the California Horse Racing Board shall create a standing committee that shall be known as the "Standardbred Sires Stakes Committee". The purpose of this committee shall be to advise the board on matters pertaining to the California Standardbred Sires Stakes Program and to make recommendations regarding its operation. The Standardbred Sires Stakes Committee shall consist of five members, one of whom shall be a member of the California Harness Horse Breeders Association, one of whom shall be a member of Western Standardbred Association, two of whom shall be of harness racing interests generally, and the Chairman of the California Horse Racing Board ex officio. The Secretary of the California Horse Racing Board shall not be a member of the committee but shall attend all meetings and shall remain informed of all proceedings. The initial appointee from

the California Harness Horse Breeders Association shall serve for a period of two years. The initial appointee from Western Standardbred Association shall serve for a period of one year. One of the initial appointees from racing interests generally shall serve for a perod of two years and the other initial appointee shall serve for a period of one year. Thereafter, all appointments shall be for a period of two years. No member of the committee shall be compensated for his services, however, reasonable travel and other expenses incurred in connection with their duties as members of the committee may be reimbursed.

(d) The California Horse Racing Board is authorized to do all that is necessary to ensure that the California Standardbred Sires Stakes Program is appropriately administered and shall upon receipt of recommendations from the Standardbred Sires Stakes Committee, prepare, issue and promulgate rules and regulations providing for the following:

(1) Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded.

(2) Nominating, sustaining and entry fees for horses and races.

(3) Such temporary programs, including eligibility of horses, breeding and other matters, as may be necessary to make the California Standardbred Sires Stakes Program operable as soon as possible.

(4) Registration and certification of California stallions, mares bred to such stallions and foals produced thereby.

(5) Such other matters as considered to be necessary and appropriate for the proper administration and implementation of the California Standardbred Sires Stakes Program.

(e) The funds for the California Sires Stakes Program made available pursuant to Section 19491.7 and the nominating, sustaining and entry fees provided for herein shall be deposited into the General Fund in a trust account entitled "California Standardbred Sires Stakes Fund," which fund is continuously appropriated for the purposes of this section. All disbursements therefrom for the payment of purses and awards, cost of administration, reimbursement of expenses of members of the Standardbred Sires Stakes Committee and any other appropriate expenses shall be made by the Chairman of the California Horse Racing Board or his designee. The California Horse Racing Board shall annually make a full report to the Governor and the Legislature setting forth an itemization of all deposits to such fund, an itemization of expenditures from such fund, and an estimate on an annual basis for the following five-year period of income to such fund and distribution from such fund.

(f) Pursuant to the provisions of Section 19491.7 of Article 4 of this chapter the breakage used to fund the California Standardbred Sires Stakes Program and to increase purses shall be divided in accordance with the following criteria:

	California Standardbred Sires Stakes Program	Purses
1977	10%	90%
1978	20%	80%
1979	25%	75%
1980	50%	50%
1981 and thereafter	75%	25%

(g) An amount equal to 10 percent of the total derived from breakage pursuant to Section 19491.7 raced for in the California Sires Stakes races during a given year shall be awarded prior to the first day of April of the year immediately following to the standardbred breeders of the horses that earned purse money in the California Standardbred Sires Stakes races in proportion to the amount of purse money earned by each horse.

(h) An amount equal to 2 percent of the total derived from breakage pursuant to Section 19491.7 raced for in the California Sires Stakes races during a given year shall be awarded prior to the first day of April of the year immediately following to the owners of the registered California standardbred stallions that sired horses that earned purse money in the California Standardbred Sires Stakes races in proportion to the amount of purse money earned by each horse so sired.

(i) Notwithstanding the provisions of subdivision (b) of this section and upon the recommendation of the Standardbred Sires Stakes Committee, the California Horse Racing Board shall establish a series of races for two-year-old and three-year-old fillies that are wholly owned by a California resident on the first day of January of the year that they become two-year-olds and are wholly owned by a California resident on the day of the race.

(j) The balance remaining in the California Standardbred Sires Stakes Fund, including nominating, sustaining and entry fees, and after the expenditures described in subdivisions (e), (f), (g), (h) and (i) have been made, shall be allocated to purses for races comprising the California Standardbred Sires Stakes Program.

(k) The schedule of races that shall comprise the California Standardbred Sires Stakes Program during each year shall be set by the California Horse Racing Board upon receiving advice from the Standardbred Sires Stakes Committee in accordance with the following criteria:

(1) California Standardbred Sires Stakes races shall be scheduled for two-year-old and three-year-old trotters and two-year-old and three-year-old pacers at each licensed harness meeting in California except that no two-year-old races shall be held prior to the first day of June of any year. Races for four-year-old or aged trotters and four-year-old or aged pacers may also be scheduled providing the California Horse Racing Board, upon receiving advice from the Standardbred Sires Stakes Committee, determines such races to be beneficial to the objectives of the California Standardbred Sires

Stakes Program.

(2) Two- and three-year-old races shall be divided into colt and filly divisions. Races for four-year-olds or aged horses may be divided into divisions by sex when sufficient horses are available.

(3) Fifty percent of the amount provided for purses in any given year for the California Standardbred Sires Stakes Program that is derived from breakage pursuant to Section 19491.7, shall be equally divided between trotting races and pacing races. The remaining 50 percent shall be divided between trotting races and pacing races in proportion to the nominees at each gait by a method approved by the California Horse Racing Board on the advice of the California Standardbred Sires Stakes Committee.

(4) In each division of each race in the California Standardbred Sires Stake races, the purse shall be divided in the following manner:

(i) Five or more starters

1st	50%
2nd	25%
3rd	12%
4th	8%
5th	5%

(ii) Four starters

1st	50%
2nd	25%
3rd	15%
4th	10%

(iii) Three starters

1st	60%
2nd	30%
3rd	10%

(iv) Two starters

1st	65%
2nd	35%

(v) One starter

1st	100%

CHAPTER 1149

An act to amend Section 2924b of the Civil Code, relating to mortgages and deeds of trust.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 2924b of the Civil Code is amended to read:

2924b. (1) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or mortgage the power of sale cannot be exercised until such notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of such deed of trust or mortgage and prior to recordation of notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of any such notice of default and of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof and the book and page where the same is recorded or the recorder's number and shall be in substantially the following form:

"In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust (or mortgage) recorded _____, 19__, in Book _____ page _____ records of _____ County, (or filed for record with recorder's serial number _____, _____ County) California, executed by _____ as trustor (or mortgagor) in which _____, is named as beneficiary (or mortgagee) and _____ as trustee be mailed to_____ at_____.

Name Address

Signature_____"

Upon the filing for record of such request, the recorder shall index in the general index of grantors the names of the trustors (or mortgagor) recited therein and the names of persons requesting copies.

(2) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:

(a) Within 10 days following recordation of such notice of default, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in such request.

(b) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in such request.

(3) The mortgagee, trustee, or other person authorized to record

the notice of default shall do each of the following:

(a) Within one month following recordation of such notice of default, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person set forth in paragraph (b) of subdivision (3), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of such estate or interest in the land or portion thereof which is subject to the deed of trust or mortgage being foreclosed, and provided such instrument is recorded in the office of the county recorder so as to impart such constructive notice prior to the recording date of the notice of default and provided such instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of such instrument after recording, and which address shall be the address used for the purposes of mailing notices herein.

(b) The persons to whom notice shall be mailed under this subdivision are:

(A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being foreclosed.

(B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with such deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to such deed of trust or mortgage being foreclosed.

(C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B) above, as of the recording date of the notice of default.

(D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with such deed of trust or mortgage being foreclosed but subject to a recorded agreement or statement of subordination to such deed of trust or mortgage being foreclosed.

(E) The successor in interest to such vendee or lessee described in subparagraph (D) above, as of the recording date of the notice of default.

(c) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail, an envelope, registered or certified with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the notice of default is to be mailed as provided in subdivisions (a) and (b).

(d) The mailing of notices in the manner set forth in subdivision (a) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate such notice to such entitled person from the fact that the mailing address used by the county recorder is the address of such attorney, agent, or employee.

(4) Any deed of trust or mortgage with power of sale hereafter executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person a party thereto at the address of such person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each such person at the same time and in the same manner required as though a separate request therefor had been filed by each of such persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the trustor or mortgagor for special notice at the address of such person given therein or does contain such request but no address of such person is given therein and if no request for special notice by such trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated, such publication to commence within 10 days after the filing of the notice of default. In lieu of such publication a copy of the notice of default may be delivered personally to the trustor or mortgagor within such 10 days or at any time before publication is completed.

(5) No request for copy of any notice filed for record pursuant to this section nor any statement or allegation in any such request nor any record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein.

SEC. 2. This act shall become operative on July 1, 1977.

CHAPTER 1150

An act to amend Sections 1786.2, 1786.12, 1786.16, and 1786.40 of the Civil Code, relating to investigative consumer reporting.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1786.2 of the Civil Code is amended to read:

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. The term "person" as used in this title shall not be construed to require duplicative reporting by any individual, corporation, trust, estate, cooperative, association, government, or governmental subdivision or agency, or other entity involved in the same transaction.

(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. The term does not include a consumer report or other compilation of information which is limited to specific factual information relating to a consumer's credit record or manner of obtaining credit obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a potential or existing 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 and does not include any licensed insurance agent, insurance broker, or solicitor, insurer, or life insurance agent.

(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 or indirectly from a licensed physician, medical practitioner, hospital, clinic, or other medical or medically related facility.

SEC. 2. Section 1786.12 of the Civil Code is amended to read:

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 or the rate for such insurance; 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; or

(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.

SEC. 3. Section 1786.16 of the Civil Code is amended to read:

1786.16. (a) Any person described in subdivision (d) of Section 1786.12 shall not procure or cause to be prepared an investigative consumer report unless the following applicable conditions are met.

(1) If an investigative consumer report may be sought in connection with the underwriting of insurance, it shall be clearly and accurately disclosed in writing at the time the application form, medical form, binder, or similar document is 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, medical 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.

(2) If, at any time, an investigative consumer report is sought for employment purposes other than promotion or reassignment, 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.

(b) The provisions of subdivision (a) shall not apply to an investigative consumer report procured or caused to be prepared by an employer if the purpose of the employer is to:

(1) Determine whether or not an employee is to be retained; and

(2) To determine whether or not such employee is engaged in any criminal activity likely to result in a loss to the employer.

(c) Those persons described in subdivision (d) of Section 1786.12 of this title shall constitute the sole and exclusive class of persons who may cause an investigative consumer report to be prepared.

SEC. 4. Section 1786.40 of the Civil Code is amended to read:

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, the consumer, or another person related to the consumer and acting on the consumer's behalf and 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 providing the information. 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.

03351 298300 744

CHAPTER 1151

An act to amend Section 1540 of the Code of Civil Procedure, relating to escheated property, and making an appropriation therefor.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 1540 of the Code of Civil Procedure is amended to read:

1540. (a) Any person, excluding another state, who claims an interest in property paid or delivered to the State Controller under this chapter may file a claim to the property or to the net proceeds from its sale. The claim shall be on a form prescribed by the State Controller and shall be verified by the claimant.

(b) The State Controller shall consider each claim within 90 days after it is filed. He may hold a hearing and receive evidence. He shall give written notice to the claimant if he denies the claim in whole or in part. Such notice may be given by mailing it to the address, if any, stated in the claim as the address to which notices are to be sent. If no such address is stated in the claim, the notice may be mailed to the address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either an address to which notices are to be sent or an address of the claimant.

(c) The State Controller shall add interest at the rate of 5 percent or such lesser rate as the property earned while in the possession of the holder, compounded annually, to the amount of any claim paid to the owner under this section, if the property claimed was interest-bearing to the owner while in the possession of the holder.

Such interest shall begin to accumulate on the date the property is delivered to the State Controller and shall cease on the date on which payment is made to the owner. No interest shall be payable for any period prior to January 1, 1977.

(d) Any holder who pays to the owner, property which has escheated to the state and which, if claimed from the State Controller, would be subject to subdivision (c) shall add interest as provided in subdivision (c). Such added interest shall be repaid to the holder by the State Controller in the same manner as the principal.

(e) For the purposes of this section, "owner" means the person who had legal right to the property prior to its escheat, his heirs, or his legal representative.

SEC. 2. The sum of four thousand five hundred dollars ($4,500) is hereby appropriated to the State Controller for purposes of this act.

03547 298335 751

CHAPTER 1152

An act to amend Sections 481 and 12400 of, and to add Section 481.1 to, the Insurance Code, relating to insurance premiums.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 481 of the Insurance Code is amended to read:

481. (a) Unless the insurance contract otherwise provides, a person insured is entitled to a return of premium if the policy is canceled, rejected, surrendered, or rescinded, as follows:

(1) To the whole premium, if the insurer has not been exposed to any of the perils insured against.

(2) Where the insurance is made for a definite period of time and the insured surrenders his policy, to such proportion of the premium as corresponds with the unexpired time, after deducting from the whole premium any claim for loss or damage under the policy which has previously accrued. The provisions of Section 482 apply only to the expired time.

(b) No contract for individual motor vehicle liability or homeowners' multiple-peril insurance may contain a provision which mandates that the premium for such policy shall be fully earned upon the happening of any contingency except the expiration of the policy itself. This subdivision shall not apply to policy fees or membership fees.

SEC. 2. Section 481.1 is added to the Insurance Code, to read:

481.1. (a) In the event any conditional receipt, binder, or other evidence of temporary or implied insurance, except those classes of insurance as defined in Sections 101, 104, and 106, is canceled, rejected, or surrendered by the insurer, the coverage thereby extended shall terminate 10 days after written notice to the named insured is deposited, properly addressed with postage prepaid, with the United States Postal Service.

(b) Any conditional receipt, binder, or other evidence of temporary or implied insurance described in subdivision (a) shall remain in force for a period of 30 days from the date of its issuance unless sooner canceled, rejected, or surrendered pursuant to the provisions of subdivision (a).

SEC. 3. Section 12400 of the Insurance Code is amended to read:

12400. The provisions of subdivision (f) of Section 381, and the provisions of Sections 382, 383, 383.5, 386, 481, 750, 751, 752, 755, 755.5, 756, 757, 758, 759, 760, 760.5, 763, 763.5, 766, 800, 801, 802, 803, and 804, shall not apply to title insurers.

CHAPTER 1153

An act to add Section 2193.6 to the Business and Professions Code, relating to healing arts.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 2193.6 is added to the Business and Professions Code, to read:

2193.6. Notwithstanding any other provision of law, any applicant whose medical education was acquired in another country or in the United States and who has been licensed to practice, and who has actively practiced, medicine and surgery for a period of not less than 15 years in a foreign country or other state of the United States, and whose license requirements and medical education are evaluated and deemed satisfactory to the board, shall be required to pass only those portions of the written examination as provided under Article 10 (commencing with Section 2280), relating to clinical competence and clinical science and shall be exempt from other portions of the written examination. Such applicant shall be required to pass an oral and comprehensive clinical examination administered by the board.

SEC. 2. This act shall become operative on July 1, 1978.

CHAPTER 1154

An act to amend Sections 25608, 29551, and 31500 of the Corporations Code, and to amend Sections 12214, 17207, 17211, 18350, and 18810 of the Financial Code, relating to fees.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 25608 of the Corporations Code is amended to read:

25608. (a) The commissioner shall charge and collect the fees fixed in this section. All fees charged and collected under this section shall be transmitted to the State Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for a negotiating permit under subdivision (c) of Section 25102 is fifty dollars ($50).

(c) The fee for filing a notice pursuant to clause 5 of subdivision (h) of Section 25102 is twenty-five dollars ($25).

(d) The fee for filing an application for designation of an issuer

pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (j) of this section) is one hundred dollars ($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750).

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 is one hundred dollars ($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand five hundred fifty dollars ($1,550).

(g) For the purpose of determining the fees fixed in subdivisions (e) and (f):

(1) The value of the securities shall be the price at which the company proposes to sell the securities, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in exchange therefor, or of the securities when sold, whichever is greater.

(2) Interim or voting trust certificates shall have a value equal to the aggregate value of the securities to be represented by the interim or voting trust certificates.

(3) The value of a warrant or right to purchase or subscribe to another security of the same or another issuer shall be an amount equal to the consideration to be paid for such warrant or right plus an amount equal to the consideration to be paid upon purchase of the additional securities, provided that if such latter amount is not determinable at the time of qualification, such amount shall be the then value of such additional securities as determined by the commissioner.

(4) In the case of a share dividend where the shareholders are given an option to accept either cash or additional shares of common stock, the value of the securities to be sold shall be the maximum amount of cash which would be payable in the event that all shareholders elected to accept cash.

(h) The fee for filing an application for qualification of the sale of securities by permit under Section 25121 is:

(1) One hundred dollars ($100) in connection with any change (including any stock split or reverse stock split or stock dividend, except a stock dividend where the shareholders are given an option to accept either cash or additional shares of common stock) in the rights, preferences, privileges, or restrictions of or on outstanding securities;

(2) One hundred dollars ($100) plus one-tenth of 1 percent of the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration to be received in exchange

therefor, up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750), in any exchange of securities by the issuer with its existing security holders exclusively, or in any exchange in connection with any merger or consolidation or purchase of corporate assets in consideration of the issuance of securities.

(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be sixty dollars ($60).

(j) The fee for an application for the removal of any condition under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(*l*) The fee for acting as escrow holder for securities under Section 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting to the transfer in escrow of securities, (2) consenting to the transfer of securities subject to any condition imposed by the commissioner requiring the commissioner's consent to such transfer, or (3) consenting to the transfer of securities subject to a legend stamped or printed on the certificates evidencing such securities pursuant to subdivision (h) of Section 25102, is ten dollars ($10) for each transferor.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee which would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the amendment had been included in the original application.

(o) The fee for filing an application for a broker-dealer under Section 25211 is three hundred dollars ($300) for the first office or location and eighty-five dollars ($85) for each additional office or location in California, and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year, during the following calendar year. Every broker-dealer who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of three hundred dollars ($300) for the first office or location and eighty-five dollars ($85) for each additional office or location in California on or before the 15th day of December preceding the additional period. Within 30 days of the opening of a new branch office a broker-dealer shall pay the commissioner a fee of one hundred dollars ($100), if the branch is opened in an even-numbered year and fifty dollars ($50) if the branch is opened in an odd-numbered year.

03752 298430 770

(p) The fee for filing an application for an agent under Section 25211 is sixty-five dollars ($65) if the certificate is granted in an even-numbered year, and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted and during the following calendar year. The fee for such certificate is thirty dollars ($30) if the certificate is granted in an odd-numbered year, and payment of this amount shall keep the certificate in effect during the calendar year during which it is granted. Every agent who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of sixty-five dollars ($65) on or before the 15th day of December preceding the additional period.

(q) The fee for filing an agent change-of-employment notification upon acceptance of new employment is ten dollars ($10). This subdivision shall be effective on January 1, 1977.

(r) The fee for filing an application for an investment adviser under Section 25231 is two hundred fifty dollars ($250), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year during the following calendar year. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of two hundred fifty dollars ($250) on or before the 15th day of December preceding the additional period.

(s) The fee for any examination, audit, or investigation is the actual amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

(t) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding such hearing.

(u) The commissioner may fix by rule a reasonable charge for any publications issued under his authority; provided, however, that such charges shall not be applicable to reports of the commissioner in the ordinary course of distribution.

(v) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h) or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

SEC. 2. Section 29551 of the Corporations Code is amended to read:

29551. (a) The fee for filing an application for a commodity adviser certificate under Section 29515 is two hundred fifty dollars ($250), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year which it is granted, and

if that year is an even-numbered year, during the following calendar year. Every commodity adviser who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of two hundred fifty dollars ($250) on or before the 15th day of December preceding the additional period.

(b) The fee for filing an application for a commodity exchange certificate under Section 29510.1 is seven hundred fifty dollars ($750), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year, during the following calendar year. Every commodity exchange who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of seven hundred fifty dollars ($750) on or before the 15th day of December preceding the additional period.

(c) The commissioner may by rule establish fees to be paid to the commissioner by commodity brokers and commodity salesmen registered with a licensed commodity exchange, not exceeding one hundred fifty dollars ($150) for each commodity broker and forty dollars ($40) for each commodity salesman in any calendar year, and such fees shall be in addition to fees payable to the commissioner pursuant to Section 29552.

(d) The fee for filing an application for a commodity broker certificate under subdivision (b) of Section 29510.2 or for filing an application for a coin and bullion dealer certificate under Section 29510.1 is two hundred fifty dollars ($250) for the first office or location and seventy-five dollars ($75) for each additional office or location in California, and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year, during the following calendar year. Every commodity broker who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of two hundred fifty dollars ($250) for the first office or location and seventy-five dollars ($75) for each additional office or location in California on or before the 15th day of December preceding the additional period.

(e) The fee for filing an application for a commodity option issuer certificate under Section 29510.3 is three hundred dollars ($300) for the first office or location and eighty-five dollars ($85) for each additional office or location in California, and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year, during the following calendar year. Every commodity option issuer who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of three hundred dollars ($300) for the first office or location and eighty-five dollars

03752 298465 777

($85) for each additional office or location in California on or before the 15th day of December preceding the additional period.

(f) The fee for filing an application for commodity salesman certificate under subdivision (b) of Section 29510.4 is sixty-five dollars ($65), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year, during the following calendar year. Every commodity salesman who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of sixty-five dollars ($65) on or before the 15th day of December preceding the additional period.

(g) The fee for filing an application for permit pursuant to subdivision (a) of Section 29545 is one thousand dollars ($1,000). The fee for filing an application for amendment to permit pursuant to Section 29545 is two hundred dollars ($200).

SEC. 3. Section 31500 of the Corporations Code is amended to read:

31500. (a) The commissioner shall charge and collect the fees fixed by this section. All fees and charges collected under this section shall be transmitted to the State Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for registration of the sale of franchises under Section 31111 is two hundred fifty dollars ($250).

(c) The fee for filing an application for renewal of a registration under Section 31121 is fifty dollars ($50).

(d) The fee for filing an amendment to the application filed under Section 31111 or 31121 is fifty dollars ($50).

SEC. 4. Section 12214 of the Financial Code is amended to read:

12214. An applicant at the time of filing an application for a license under this division shall pay to the commissioner the sum of fifty dollars ($50) as a fee for investigating the application and the additional sums of three hundred fifty dollars ($350) as a license fee for its principal office or place of business, two hundred thirty dollars ($230) for each branch office or mobile unit, and fifteen dollars ($15) for each agency. Thereafter, every licensee shall pay to the commissioner on or before the 20th day of December of each odd-numbered year the sum of three hundred fifty dollars ($350) for its principal office or place of business, two hundred thirty dollars ($230) for each branch office or mobile unit, and six dollars ($6) for each agency as a license fee for the next two succeeding calendar years. A mobile unit may only be operated as a branch office of a licensee and each mobile unit shall constitute a branch office.

SEC. 5. Section 17207 of the Financial Code is amended to read:

17207. The commissioner shall charge and collect the following fees:

(a) For filing an application for an escrow agent's license, four hundred fifty dollars ($450) for the first office or location and three

hundred twenty-five dollars ($325) for each additional office or location. If an application is filed in any even-numbered year after June 30th, the payment shall be three-fourths of the stated license fee; if filed in any odd-numbered year, the payment shall be one-half of the stated license fee, unless it is filed after June 30th of such year in which event the payment shall be one-fourth of the stated license fee.

(b) For filing an application for a duplicate of an escrow agent's license lost, stolen, destroyed, or for replacement, upon a satisfactory showing of such loss, theft, destruction, or surrender of certificate for replacement, two dollars ($2).

(c) For investigation services in connection with each application, one hundred dollars ($100), and for investigation services in connection with each additional office application, one hundred dollars ($100).

(d) For holding a hearing in connection with the application, as set forth under Section 17209.2, the actual costs experienced in each particular instance.

SEC. 6. Section 17211 of the Financial Code is amended to read:

17211. Each licensed escrow agent shall pay to the commissioner on or before the 20th day of December of each odd-numbered year the sum of four hundred fifty dollars ($450) for the first office or location and three hundred twenty-five dollars ($325) for each additional office or location as a license fee for the next two succeeding calendar years.

SEC. 7. Section 18810 of the Financial Code is amended to read:

18810. Each industrial loan company shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of this division, as estimated by the commissioner for the ensuing year and of any deficit actually incurred or anticipated in the administration of this division in the year in which such assessment is made. The pro rata share shall be the proportion which a company's assets bear to the aggregate assets of all companies as shown by the latest annual reports of such companies to the commissioner. The pro rata share shall not include the costs of any examinations provided for in Section 18808, unless they cannot be collected from the company examined.

SEC. 8. Section 18350 of the Financial Code as added by Senate Bill No. 1793 of the 1975–76 legislative session is amended to read:

18530. Each industrial loan company shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of this division, as estimated by the commissioner for the ensuing year and of any deficit actually incurred or anticipated in the administration of this division in the year in which such assessment is made. The pro rata share shall be the proportion which a company's assets bear to the aggregate assets of all companies as shown by the latest annual reports of such companies to the commissioner. The pro rata share shall not include the costs of any examinations provided for in Section 18392, unless

03752 298495 783

they cannot be collected from the company examined.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill No. 1793 are both chaptered and become effective January 1, 1977, and Senate Bill No. 1793 repeals Division 7 (commencing with Section 18000) of the Financial Code, that the amendments to Section 18350 be given effect in the form set forth in Section 8 of this act. Therefore, Section 8 of this act shall become operative only if this bill and Senate Bill No. 1793 are both chaptered and become effective January 1, 1977, in which case Section 18810 as set forth in Section 7 of this act shall not become operative.

CHAPTER 1155

An act to amend Section 23509 of, to add Division 3 (commencing with Section 2500) and Sections 2503 and 22005 to, and to repeal Division 3 (commencing with Section 2500) of, and Sections 2504.1 and 22803 of, the Elections Code, to amend Section 1773 of the Government Code, and to amend Section 2287 of the Revenue and Taxation Code, relating to elections.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Division 3 (commencing with Section 2500) of the Elections Code is repealed.

SEC. 2. Division 3 (commencing with Section 2500) is added to the Elections Code, to read:

DIVISION 3. ELECTION DATES

CHAPTER 1. ESTABLISHED ELECTION DATES

2500. Three regular election dates shall be established in each year as follows:

(1) The first Tuesday after the first Monday in March of each year.

(2) The last Tuesday in May of each odd-numbered year.

(3) The first Tuesday after the first Monday in June of even-numbered years.

(4) The first Tuesday after the first Monday in November of each year.

2501. Elections held in June and November of each even-numbered year shall be statewide elections and these dates shall be considered statewide election dates.

2502. Except as provided in Section 2503, notwithstanding any other provisions of law, all state, county, municipal, district, and school district elections shall be held on the established election date

03684 298515 787

nearest to the date on which they would be held in the absence of this chapter. If the election is held on a statewide election date it shall be consolidated with the statewide election. The procedural requirements prescribed for any such election shall be construed as if the provisions of this section were specifically set forth in the provisions relating to that election.

2503. This chapter shall not apply to the following:

(1) Any special election called by the Governor.

(2) Elections held in chartered cities or chartered counties in which the charter provisions are inconsistent with the provisions of this chapter.

(3) School governing board elections consolidated pursuant to Section 1111.6 of the Education Code or initiated by petition pursuant to Section 1162 of the Education Code.

(4) Elections of any kind required or permitted to be held by a school district located in a chartered city or county when such election is consolidated with a regular city or county election held in a jurisdiction which includes 95 percent or more of the school district's population.

(5) County, municipal, district, and school district initiative, referendum, or recall elections.

(6) Any election conducted solely by mailed ballot pursuant to either Section 22032 of this code or Section 2287 of the Revenue and Taxation Code.

CHAPTER 2. STATEWIDE ELECTIONS

2550. The statewide general election shall be held on the first Tuesday after the first Monday of November in each even-numbered year.

2551. The statewide direct primary shall be held on the first Tuesday after the first Monday in June in each even-numbered year.

2552. The presidential primary shall be consolidated with the statewide direct primary held in any year evenly divisable by the whole number four.

2553. For each regularly scheduled statewide election the Governor shall issue a proclamation calling the election. The proclamation shall be issued by the Governor under his hand and the Great Seal of the state between the 91st and the 84th day prior to the election and shall state the time of the election and the offices, if any, to be filled. Copies of the proclamation shall be transmitted by the Governor to the boards of supervisors of the counties.

2554. The clerk conducting the election shall publish a notice of the election in a newspaper of general circulation once within the territory where the election is to be held. The notice shall contain a statement of:

(a) The date of the election.

(b) The purpose of the election specifying offices to be filled, if any.

(c) The hours the polls are to be open.

The notice of election shall be published no later than 50 days before the election.

CHAPTER 3. LOCAL ELECTIONS

2600. Except as otherwise provided in the Government Code, an election to select county officers shall be held with the statewide primary at which candidates for Governor are nominated. In the event that county officers are not elected pursuant to Sections 6611 and 6612, this election shall be deemed a primary election and a county general election shall be held with the statewide general election to select county officers.

2601. A general municipal election shall be held on the first Tuesday following the first Monday in March of even-numbered years.

2602. Except as otherwise provided, the regular election to select governing board members in any school district shall be held on the first Tuesday after the first Monday in March of each odd-numbered year.

2603. A general district election to elect members of the governing board shall be held in each special district subject to the provisions of Division 14 (commencing with Section 22000) on the first Tuesday following the first Monday in November of each odd-numbered year.

2604. If any election to choose members of the governing board of a special district is to be totally conducted by mailed ballot, it shall be held on the first Tuesday following the first Monday in September of each odd-numbered year.

CHAPTER 4. SPECIAL ELECTIONS

2650. All special elections shall be held on one of the established election dates set by this division except as provided in Section 2503.

2651. The Governor shall call all statewide, congressional, or legislative special elections by issuing a proclamation pursuant to Section 2553. In the case of a vacancy in office the proclamation shall be issued within 14 calendar days of the occurrence of the vacancy.

A copy of the proclamation shall be sent to the board of supervisors of every affected county and a notice of election published in accordance with the provisions of Section 2554.

2652. When a vacancy occurs in a congressional office after the close of the nomination period in the final year of the term of office, the Governor may decline to issue an election proclamation at his discretion.

When a vacancy occurs in a legislative office after the close of the nomination period in the final year of the term of office, no special election shall be held.

2653. For a special local election, the governing body of the local

agency shall issue a proclamation or a resolution calling the election which shall be published pursuant to Section 2554.

SEC. 2.5. Section 2503 is added to the Elections Code, to read:

2503. This chapter shall not apply to the following:

(1) Any special election called by the Governor.

(2) Elections held in chartered cities or chartered counties in which the charter provisions are inconsistent with the provisions of this chapter.

(3) School governing board elections consolidated pursuant to Section 5006 of the Education Code or initiated by petition pursuant to Section 5091 of the Education Code.

(4) Elections of any kind required or permitted to be held by a school district located in a chartered city or county when such election is consolidated with a regular city or county election held in a jurisdiction which includes 95 percent or more of the school district's population.

(5) County, municipal, district, and school district initiative, referendum, or recall elections.

(6) Any election conducted solely by mailed ballot pursuant to either Section 22032 of the Elections Code or Section 2287 of the Revenue and Taxation Code.

SEC. 2.6. Section 2504.1 of the Elections Code is repealed.

SEC. 4. Section 22005 is added to the Elections Code, to read:

22005. If the governing body of any special district fails to call or to take any other steps necessary to the holding of the regular district election at which any member or members of the governing body of the district are to be selected, the board of supervisors of the county in which the district is located, upon being notified of this fact by any voter in the district, may call a special election within the district for the selection of the governing board member or members involved. The election shall be held not later than 90 days after it is called by the board of supervisors, and shall be conducted in the same manner as the regular district election. The costs of such special election shall be borne by the district for which the election is held.

SEC. 5. Section 22803 of the Elections Code is repealed.

SEC. 6. Section 23509 of the Elections Code is amended to read:

23509. Unless the principal act of a district provides that an election shall be held on one of the other dates specified in Chapter 1 (commencing with Section 2500) of Division 3, a general district election shall be held in each district on the first Tuesday after the first Monday in November in each odd-numbered year to choose a successor for each elective officer the term of whose office will expire on the following last Friday in November.

SEC. 7. Section 1773 of the Government Code, as amended by Chapter 193 of the Statutes of 1976, is amended to read:

1773. When a vacancy occurs in the office of Representative to Congress, or in either house of the Legislature, the Governor shall within 14 calendar days after the occurrence of the vacancy issue a writ of election to fill the vacancy; provided, that when such vacancy

occurs in a congressional office after the close of the nomination period in the final year of the term of office, a special election may be held, at the Governor's discretion; and provided, further, that when a vacancy occurs in a legislative office after the close of the nomination period in the final year of the term of office, no special election shall be held.

The Governor shall issue the election proclamation under his hand and the Great Seal of the state, and transmit copies to the board of supervisors of the counties in which the election is to be held.

SEC. 8. Section 2287 of the Revenue and Taxation Code is amended to read:

2287. A maximum property tax rate election shall be held according to the law otherwise applicable to elections held by such a local agency; provided that the governing body of the local agency may authorize the use of mailed ballots whenever the local agency makes a determination that the use of mailed ballots is less costly or in any manner more feasible than other election procedures. When a mailed ballot is used, the election shall not be subject to the limitations contained within Sections 2500 to 2502, inclusive, of the Elections Code.

SEC. 9. Section 2503 as added to the Elections Code by Section 2.5 of this act shall become operative only if Assembly Bill No. 3100 of the 1975–76 Regular Session is enacted, in which case Section 2503 as added to the Elections Code by Section 2 of this act shall not become operative.

CHAPTER 1156

An act to amend Section 21684 of the Public Utilities Code, relating to aeronautics.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 21684 of the Public Utilities Code is amended to read:

21684. (a) No payment shall be made to a public entity pursuant to this article unless the public entity has established a special aviation fund in which all payments received by a public entity under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made to a public entity pursuant to Section 21682 or 21683 unless the public entity deposits in its special aviation fund, for expenditures solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on a rate established annually by the board as matching funds. The board shall establish a rate of at least 10 percent and not exceeding

50 percent of the nonfederal funded portion, provided such rate shall be uniform for all entities and projects within a particular year. In no event shall the sum deposited to the special aviation fund be less than 10 percent of the total eligible project costs.

Notwithstanding the provisions of this subdivision inasmuch as they require matching funds, the department shall pay the sum of five thousand dollars ($5,000) annually to each city, county, airport district, or the University of California owning and operating an airport or airports in accordance with subdivision (a) of Section 21682.

(b) No payment shall be made for any airport to the University of California pursuant to this article unless the university has established a special aviation fund in which all payments received by the university under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made for any airport to the University of California pursuant to Section 21682 or 21683 unless the university deposits in its special aviation fund, for expenditure solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on the rate established annually by the board pursuant to subdivision (a), or unless a city located within 10 miles of the airport or the county within which the airport is located pays to the university a sum based on the rate established by the board pursuant to subdivision (a); provided, however, that any such sums deposited by the university or paid by such city or county may be considered jointly as meeting the requirements of this section. The payments received from a city or county pursuant to these sections are to be expended solely for the airport and for aviation purposes related to such airport. All payments received by the university shall be deposited in its special aviation fund.

(c) Payments made by the department pursuant to Section 21682 and funds provided by public entities to match these payments may be accrued for a period of not more than three years. Extension of time for accrual of these funds for major projects must be obtained from the department.

SEC. 2. The amendments made in Section 1 of this act shall be effective only from the period commencing July 1, 1977, to and including June 30, 1981. The Department of Transportation shall submit to the Legislature prior to July 1, 1980, a report on airport funding under this act, including recommendations for a permanent solution to the funding problems.

CHAPTER 1157

An act to add Section 11000.7 to the Government Code, relating to license renewals.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 11000.7 is added to the Government Code, to read:

11000.7. Notwithstanding any other provision of law, every state agency shall establish such license periods and renewal dates for all licenses issued by such agencies in such manner as best to distribute the renewal work of all agencies throughout each year and permit the most efficient and economical use of personnel and equipment. To the extent practicable, provision shall be made for the proration or other adjustment of fees in such manner that no person shall be required to pay a greater or lesser fee than he would have been required to pay if the change in license periods or renewal dates had not occurred.

Every state agency shall report to the Legislature on or before January 1, 1978, showing the system of license periods and renewal dates being utilized by such agency and showing that such system is the most efficient, economical, and practical system available to such agency.

Nothing in this section shall authorize any state agency to vary the period of any license which is issued other than as authorized by law.

CHAPTER 1158

An act to amend Section 1370.1 of the Penal Code, relating to crimes.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1370.1 of the Penal Code is amended to read:

1370.1. Notwithstanding the provisions of Section 1370, if the court has reason to believe that the defendant's inability to understand the nature and purpose of the criminal proceedings taken against him so as to be able to conduct, or assist in, his own defense in a rational manner is a result of a developmental disability, the trial or judgment shall be suspended, and the court shall order the regional center for the developmentally disabled, which serves

04274 2995 813

the counties in which (1) the individual resides or resided prior to apprehension, (2) persons found by the regional center to be responsible for or concerned with the welfare of the developmentally disabled person reside, or (3) the court is located, and which is established under the Lanterman Developmental Disabilities Services Act, Division 25 (commencing with Section 38000) of the Health and Safety Code, to examine the defendant and within 90 days report to the court the results of the examination and its recommendation for the care and treatment of the defendant. As used in this section, "developmental disability" means a disability which continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual. As defined by the Director of Health, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature. The court may make such orders as may be necessary to provide for the examination of such person by the regional center and for the safekeeping, necessary medical treatment, care or restraint of the defendant pending further orders of the court following receipt of the regional center's report, in the county hospital, his own home, in a state hospital, or in such other place, excluding a jail, as will afford access to personnel of the regional center for the purpose of examination and suitable provisions for the safety, treatment, care, and restraint of the defendant. If the regional center reports that the defendant is not developmentally disabled, the court shall make the appropriate order under Section 1370. If the regional center reports that the defendant is developmentally disabled and is a danger to himself or others and therefore subject to commitment to a state hospital pursuant to Article 5 (commencing with Section 6500), Chapter 2, Part 2, Division 6, of the Welfare and Institutions Code, the regional center shall recommend the initiation of proceedings to commit the defendant to a state hospital pursuant to Article 5. If the regional center reports that the defendant is developmentally disabled but is not subject to commitment to a state hospital pursuant to Article 5, the regional center shall make such recommendations as it deems best for the care and treatment of the defendant. Upon receiving the report and recommendations of the regional center, the court shall order that commitment proceedings pursuant to Article 5 be instituted if such defendant is subject to commitment thereunder, or, if not so subject to commitment, it shall order the defendant placed in a home or facility, or state hospital recommended by the regional center for care and treatment or in some other home, facility, or state hospital approved by the regional center for the care and treatment of the defendant. The regional center shall reexamine each defendant placed in a home or facility or state hospital, or committed to a state hospital, at least once each

year to make a report to the court as to its recommendations for the coming year. The regional center shall have the responsibility of reporting to the court the results of its reexamination, including the client's progress for the past year, and its recommendation for the care and treatment of the defendant for the coming year, the facility best able to provide care and treatment for the coming year, and the estimated period of time required for care and treatment. The regional center shall evaluate the defendant's behavior and his progress in the treatment of those behaviors related to the criminal offense or offenses for which criminal proceedings have been currently suspended, to determine if those behaviors have been sufficiently modified to warrant a recommendation that criminal charges be dismissed. If the regional center evaluation indicates that the individual presents the dual disability of mental retardation and mental disorder, and the presenting diagnosis is mental disorder, the regional center shall so indicate to the court, with a recommendation for commitment for the care and treatment of the mental disorder in a state hospital, or any other appropriate public or private mental health treatment facility approved by the regional center until such time as the mental disorder is in remission and the individual can be suitably placed in a treatment program for mentally retarded persons.

After the initial recommendation by the regional center is received by the court, the court may dismiss the charges or continue suspension of the charges. The regional center shall closely monitor the defendant and the program and closely monitor the defendant's progress. Should the recommended program be inappropriate to the specific needs of the defendant, or should his behaviors require a more restrictive program, the court shall be apprised of such requirements and subsequent recommendation for change of program plan for the defendant. If the regional center ascertains that the condition of the defendant has changed to the extent that the defendant is able to understand the nature and purpose of the criminal proceedings taken against him so as to be able to conduct, or assist in, his own defense in a rational manner, it shall certify the finding to the court wherein the defendant's case is pending, the district attorney and the defense attorney of record. Proceedings may be resumed, or the charges may be dismissed. In no event shall proceedings under this section exceed the maximum sentence prescribed by law for the offense charged, or three years, whichever is less. After such period of time, the criminal case shall be dismissed.

Any time spent in proceedings or programs under this section, whether in a facility or outside a facility, shall be credited against any sentence to which the defendant may be subject. If, at any time prior to the maximum period of time allowed for proceedings under this section, the regional center concludes that the behaviors of the defendant related to the defendant's criminal offense have been sufficiently modified during time spent in court-ordered programs, the court may, upon recommendation of the regional center, dismiss

the criminal charges. In the event of dismissal of the criminal charges, the person shall be rereferred to the appropriate regional center for services under the Lanterman Developmental Disabilities Services Act, Division 25 (commencing with Section 38000) of the Health and Safety Code.

CHAPTER 1159

An act to amend Sections 1400, and 28701 of, to add Article 3.4 (commencing with Section 320) to Chapter 2 of Division 1 of, and to repeal Article 3.1 (commencing with Section 306) of Chapter 2 of Division 2 of, the Health and Safety Code, relating to health.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Article 3.1 (commencing with Section 306) of Chapter 2 of Division 1 of the Health and Safety Code is repealed.

SEC. 2. Article 3.4 (commencing with Section 320) is added to Chapter 2 of Division 1 of the Health and Safety Code, to read:

Article 3.4. Child Health Disability Prevention Program

320. The Legislature finds and declares that many physical and mental disabilities can be prevented, or their impact on an individual lessened, when they are identified and treated before they become chronic and irreversible damage occurs. The Legislature finds and declares that a community-based program of early identification and referral for treatment of potential handicapping conditions will be effective in reducing the incidence of such conditions and will benefit the health and welfare of the citizens of this state.

It is the intent of the Legislature in enacting this article to establish child health and disability prevention programs, which shall be financed and have standards established at the state level and which shall be operated at the local level, for the purpose of providing early and periodic assessments of the health status of children. It is further intended that child health and disability prevention programs make maximum use of existing health care resources so that health screening programs are fully integrated with existing health services, that health care professionals be appropriately represented and utilized in these programs, that outreach programs be developed to stimulate the use of preventive health services, and that services offered pursuant to this part be efficiently provided and be of the highest quality.

320.2. As used in this article:

(a) "Board" means the State Child Health Board.

(b) "Department" means the State Department of Health.

(c) "Director" means the Director of Health.

(d) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly.

320.5. A State Child Health Board is hereby established within the department which shall consist of five voting members.

The Governor shall appoint the following three members of the board: A specialist in maternal and child health employed by the department, one physician and surgeon, and one child psychiatrist. The Chairman of the Senate Rules Committee shall appoint one member of the board: a pediatrician. The Speaker of the Assembly shall appoint one member of the board: a pediatrician. The term of each member of the board, except the members first appointed, shall be for three years. Of the members first appointed by the Governor, one shall hold office for three years, one shall hold office for two years, and one shall hold office for one year. The member first appointed by the Chairman of the Senate Rules Committee shall hold office for three years. The member first appointed by the Speaker of the Assembly shall hold office for two years.

The members of the board shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this article.

The board shall select its own chairman from among the five appointed members by majority vote of the members and shall establish such committees as it deems necessary or desirable. The board may utilize available department staff and staff of all other public and private agencies which have an interest in child health services.

The board shall meet on call of the board chairman, at least once annually, or as often as necessary to fulfill its duties. All meetings and records of the board shall be open to the public.

The board shall have the following powers, duties, and responsibilities:

(a) Review of standards for health screening, evaluation, and diagnostic procedures for community child health and disability prevention programs.

(b) Review of standards for directors of community child health and disability prevention programs.

(c) Review of standards for public and private health providers, facilities, and agencies which participate in community child health and disability prevention programs.

(d) Advising the director on the development of a five-year state plan for child health and disability prevention services.

(e) Periodic review of all child health and disability prevention services within California and conducting independent investigations and studies as necessary.

(f) Mediation of disputes between counties and the state arising under this article.

320.7. There is hereby created a State Advisory Committee on

Child Abuse. The membership of the committee shall be composed of seven persons who shall be representative of parents, medical and health practitioners, law enforcement personnel, social workers and other professionals interested in children's services. The board shall appoint four members to the committee, the Speaker of the Assembly shall appoint one member, the Senate Rules Committee shall appoint one member and the Governor shall appoint one member. The members shall serve at the pleasure of the appointing power.

The committee shall act in an advisory capacity to the Office of Child Abuse Prevention, established pursuant to Article 3 (commencing with Section 18952) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code concerning the performance of that office's duties and responsibilities and to the board concerning the matter of child abuse.

This section shall be operative only during such time as federal funds are provided or made available for the purposes of Chapter 309 of the Statutes of 1974. This section shall remain in effect only so long as the provisions of Chapter 11 (commencing with Section 18950) of Part 6 of Division 9 of the Welfare and Institutions Code remain in effect, and on the date such provisions are repealed, this section shall also be repealed.

321. The department shall administer this article and shall adopt standards for the approval of community child health and disability prevention programs and rules and regulations as necessary. However, such standards, rules, and regulations may be adopted only with the advice and written recommendation of the board. Standards shall be adopted for:

(a) Education and experience requirements for directors of community child health and disability prevention programs.

(b) Health screening, evaluation, and diagnostic procedures for child health and disability prevention programs.

(c) Public and private facilities and providers which may participate in community child health and disability prevention programs.

The department shall adopt a five-year state plan for child health and disability prevention services by October 1, 1974. The plan shall include a method for allocating child health and disability prevention funds to counties. The plan shall be reviewed and revised as necessary to provide a basis for allocating state child health and disability prevention program funds throughout the state.

321.2. The governing body of each county or counties shall establish a community child health and disability prevention program for the purpose of providing early and periodic assessments of the health status of children in the county or counties by July 1, 1974. However, this shall be the responsibility of the department for all counties which contract with the state for health services. Each such plan shall include, but is not limited to, the following requirements:

(a) Outreach and educational services.

(b) Agreements with public and private facilities and practitioners to carry out the programs.

(c) Health screening and evaluation services.

(d) Referral for diagnosis or treatment when needed and methods for assuring referral is carried out.

(e) Recordkeeping and program evaluations.

The health screening and evaluation part of each community child health and disability prevention program plan shall include, but is not limited to, the following for each child:

(a) A health and development history.

(b) An assessment of physical growth.

(c) A developmental assessment.

(d) An examination for obvious physical defects.

(e) Ear, nose, mouth, and throat inspection, including inspection of teeth and gums.

(f) Screening tests for vision, hearing, anemia, tuberculosis, diabetes, and urinary tract conditions.

(g) An assessment of nutritional status.

(h) An assessment of immunization status.

(i) Where appropriate, testing for sickle cell trait, lead poisoning, and other tests which may be necessary to the identification of children with potential disabilities requiring diagnosis and possibly treatment.

Standards for procedures to carry out health screening and evaluation services and to establish the age at which particular tests should be carried out shall be established by the director, with review and recommendation by the board. However, a governing body may include additional health screening and evaluation procedures in its program if approved by the director and the board.

Each community child health and disability prevention program shall, pursuant to standards set by the director, establish a record system which contains a health case history for each child so that costly and unnecessary repetition of screening, immunization and referral will not occur and appropriate health treatment will be facilitated as specified in Section 308.5.

321.5. A city which operates an independent health agency may elect to provide the services described in this article with the approval of the state department. In such instance, the powers granted a governing body of a county shall be vested in the governing body of that city.

321.7. Each county shall appoint a local advisory board to assist in the administration of this article. The local advisory board shall include representatives from health professions concerned with child health and disability prevention and shall, to the extent feasible, not be created separately from other health advisory bodies in the county.

The local advisory board shall:

(a) Review the community's child health needs and the adequacy

of health care providers and facilities to meet those needs.

(b) Review the community child health and disability prevention plan.

(c) Advise and report directly to the governing body as to the program for child health and disability prevention.

322. Each community child health and disability program shall have a director meeting qualification standards by the department, appointed by the governing body, except for counties contracting with the state for health services.

322.2. Any community child health and disability prevention program may contract to furnish services to any other county if the contract is approved by the director.

322.5. On or before October 1 of each year, each governing board shall submit to the department, in the form and according to the procedures specified by the director, a community child health and disability prevention plan for the next fiscal year. The plan shall provide for the most appropriate and efficient use of existing public and private institutions and providers for providing health services and evaluation and referral.

Each community child health and disability prevention plan shall include the following:

(a) A summary of the previous year's activity, including the number of children screened, the number of children referred for diagnosis or treatment, by condition, and the cost of screening procedures.

(b) A detailed description of the results of cases in which a treatable disability was identified and referral made.

(c) A projection of the number of children to be screened through the community child health and disability prevention program.

(d) An assessment of the adequacy and availability of the facilities and providers to provide health screening and assessment in the community.

(e) A description of the child health and disability prevention program to be offered, including expected participating facilities and providers, and additional health screening tests to be provided and outreach mechanisms to be utilized.

(f) An assessment of the adequacy of public and private facilities and providers which are available to provide diagnosis or treatment for disabilities as a result of health screening and evaluation.

On or before March 15 of each year, each governing board shall submit to the department a revised community child health and disability prevention plan for the next fiscal year which includes such revisions as are necessary or desirable to make the plan compatible with the budget for that fiscal year submitted by the Governor to the Legislature. By May 1 of each year, the department shall review and approve or disapprove each community plan, together with such revisions.

If a community child health and disability prevention plan is approved, the director shall determine the amount of state funds

available for each county for specified services under an approved community child health and disability prevention plan from state funds appropriated for child health and disability prevention services.

If the amount appropriated in the Budget Act for such fiscal year as enacted into law differs from the amount in the budget submitted by the Governor for such fiscal year, each governing board shall submit an additional revised plan in the form and at the time specified by the department.

322.7. Counties shall be reimbursed for the amount required by the county to carry out its community child health and disability prevention program in accordance with the approved community child health and disability prevention plan. Claims for state reimbursement shall be made in such manner as the director shall provide. Each claim for state reimbursement shall be payable from the appropriation made for the fiscal year in which the expenses upon which the claim is based are incurred.

There shall be no reimbursement for expenditures for the treatment of disabilities identified as a result of the program or for capital improvements or the purchase or construction of buildings, except for such equipment items and remodeling expenses as may be allowed by regulations adopted by the director.

323. Counties shall be reimbursed for the amount required by the county to carry out its community child health and disability prevention program in accordance with the approved community child health and disability prevention plan. Claims for state reimbursement shall be made in such manner as the director shall provide. Each claim for state reimbursement shall be payable from the appropriation made for the fiscal year in which the expenses upon which the claim is based are incurred.

There shall be no reimbursement for expenditures for the treatment of disabilities identified as a result of the program, except for the costs of immunizations necessary to bring the child current in his or her immunization status as provided for by regulations of the department, or for capital improvements or the purchase or construction of buildings, except for such equipment items and remodeling expenses as may be allowed by regulations adopted by the director.

323.2. In order to ensure the maximum utilization of the California Medical Assistance Program and other potential reimbursement sources, the state department shall develop a schedule of reimbursement at reasonable rates for 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. Notwithstanding the provisions of subdivision (c) of Section 14000 of the Welfare and Institutions Code and Section 14005 of such code, the California Medical Assistance Program shall be billed for services rendered pursuant to this article for every

Medi-Cal eligible beneficiary.

323.5. Each child eligible for services under this article shall, upon enrollment in the first grade, give evidence satisfactory to the governing body of the school district or the governing authority of the private school in which the child is to enroll that he has received within the prior year the appropriate health screening and evaluation services specified in Section 307, unless the child's parents or guardian has given written notice to the governing body of the school district or private school in which the child is to enroll that they do not want their child to receive such health screening and evaluation services.

323.7. Any child between birth and enrollment in the first grade and all persons under 21 years of age who are eligible for the California Medical Assistance Program shall be eligible for services from the child health and disabilities prevention program in the county of which they are a resident. The department, with review and recommendation by the board, shall adopt rules and regulations specifying which age groups shall be given certain types of screening tests and recommendations for referral.

The first source of referral shall be the child's usual source of health care. If referral is required and no regular source of health care can be identified, the facility or provider providing health screening and evaluation services shall provide a list of three qualified sources of care, without prejudice for or against any specific source.

324. Each community child health and disability prevention program shall provide the child or his parent or guardian with a copy of the results of the health screening and evaluation, as well as an explanation of the meaning of the results, and shall, where the need indicates, refer the child for further diagnosis and treatment.

SEC. 3. Section 1400 of the Health and Safety Code is amended to read:

1400. It is unlawful for any person, association, or corporation to establish, conduct or maintain a referral agency or to refer any person for remuneration to any extended care, skilled nursing home or intermediate care facility or a distinct part of a facility providing extended care, skilled nursing home care, or intermediate care, without first having obtained a written license therefor as provided in this chapter from the director or from an inspection service approved by the director pursuant to Section 1257.

SEC. 4. Section 28701 of the Health and Safety Code is amended to read:

28701. No person hereafter shall engage within this State in the business of operating any frozen food locker plant without having applied for and obtained from the director of the department a license for each such place of business. Applications for such license shall be made in writing to the director of the department, on such forms and with such pertinent information as he may deem necessary. Such licenses shall be granted promptly as a matter of right unless conditions exist which are ground for denial of a license,

as hereinafter set forth.

CHAPTER 1160

An act to add Article 1.5 (commencing with Section 7650) to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, relating to commercial fishing.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Article 1.5 (commencing with Section 7650) is added to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 1.5. Federal Regulation

7650. As used in this article:

(a) "Act" means the Federal Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

(b) "Council" means the Pacific Fishery Management Council established pursuant to the act.

(c) "Secretary" means the Secretary of Commerce of the federal government.

7651. The director shall formulate such fishery management plan or plans as are necessary to meet the needs of the council in preparing a fishery management plan, or amendment thereto.

7652. Upon the approval of the secretary of a fishery management plan, or amendment thereto, prepared by the council pursuant to the act or a plan prepared by the secretary, the director may do the following to conform state law or regulations of the commission to the fishery management plan, or amendment thereto, of the council or the secretary to avoid a substantial and adverse effect on such plan by such state law or such regulations as necessary to continue state jurisdiction pursuant to Section 1856 of the act:

(a) Adopt regulations that would make inoperative for up to 180 days any statute or regulation of the commission including, but not limited to, statutes or regulations regulating bag limits, methods of take, and seasons for taking of fish for commercial purposes.

Any regulation adopted by the director pursuant to this subdivision shall specify the particular statute or regulation of the commission to be inoperative.

(b) Adopt regulations effective for up to 180 days governing phases of the taking of fish for commercial purposes which are not presently regulated by statute or regulation of the commission.

(c) Adopt regulations effective for up to 180 days governing

04513 299165 845

phases of the taking of fish for commercial purposes which are presently regulated by statute or regulation of the commission, only if such statutes or regulations are made inoperative first pursuant to subdivision (a) for the effective period of the regulations adopted by the director.

7653. Upon the adoption of any regulations pursuant to Section 7652, the director shall report to the Legislature which statutes or regulations of the commission need to be amended or repealed, and any regulations adopted by the director that need to be enacted as statutes, to conform state law to any fishery management plan, or amendment thereto, that has been approved by the secretary to avoid any substantial and adverse effect on such plan, or its amendments, by such state law.

CHAPTER 1161

An act to amend Sections 82030, 87203, 91001, and 91003 of, and to add Sections 81004.5, 87206.5, and 87208 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 81004.5 is added to the Government Code, to read:

81004.5. Any report or statement filed pursuant to this title may be amended by the filer at any time. Amending an incorrect or incomplete report or statement may be considered as evidence of good faith.

SEC. 2. Section 82030 of the Government Code is amended to read:

82030. (a) "Income" means, except as provided in subsection (b), income of any nature from any source, including but not limited to any salary, wage, advance, payment, dividend, interest, rent, capital gain, return of capital, gift, including any gift of food or beverage, loan forgiveness or payment of indebtedness, discount in the price of anything of value unless the discount is available to members of the public without regard to official status, rebate, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. "Income," other than a gift, does not include income received from any source outside the jurisdiction and not doing

business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title.

(b) "Income" also does not include:

(1) Campaign contributions required to be reported under Chapter 4 of this title;

(2) Salary and reimbursement for expenses or per diem received from a state or local government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic or charitable organization;

(3) Gifts of informational material, such as books, pamphlets, reports, calendars or periodicals;

(4) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes;

(5) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered income if the donor is acting as an agent or intermediary for any person not covered by this paragraph;

(6) Any devise or inheritance;

(7) Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency;

(8) Dividends, interest or any other return on a security which is registered with the Securities and Exchange Commission of the United States government.

SEC. 3. Section 87203 of the Government Code is amended to read:

87203. Every person who holds an office specified in Section 87200 shall, each year at a time specified by commission regulations, file a statement disclosing his investments, his interests in real property and his income during the period since the previous statement filed under this section or Section 87202. The statement shall include any investments and interest in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

SEC. 4. Section 87206.5 is added to the Government Code, to read:

87206.5. For purposes of this article "interest in real property" does not include the principal residence of the filer.

SEC. 5. Section 87208 is added to the Government Code, to read:

87208. Except in statements required by Section 87203, investments and interests in real property which have been disclosed

on a statement of economic interests filed in the same jurisdiction within the previous 60 days may be incorporated by reference.

SEC. 6. Section 91001 of the Government Code is amended to read:

91001. (a) The Attorney General is responsible for enforcing the criminal provisions of this title with respect to state agencies, lobbyists and state elections. The city and district attorneys of any city or county in which a violation occurs have concurrent powers and responsibilities with the Attorney General.

(b) The civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of this title. The civil prosecutor is the Commission with respect to the state or any state agency, the city attorney with respect to a city or city agency, and the district attorney with respect to any other agency. The civil prosecutor may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction.

(c) Whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith shall be considered in applying the remedies and sanctions of this title.

SEC. 6.5. Section 91001 of the Government Code is amended to read:

91001. (a) The Attorney General is responsible for enforcing the criminal provisions of this title with respect to state agencies, lobbyists and state elections. The district attorney of any county in which a violation occurs has concurrent powers and responsibilities with the Attorney General.

(b) The civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of this title. The civil prosecutor is the commission with respect to the state or any state agency, except itself. The Attorney General is the civil prosecutor with respect to the commission. The district attorneys are the civil prosecutors with respect to any other agency. The civil prosecutor may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction.

(c) Whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith shall be considered in applying the remedies and sanctions of this title.

SEC. 7. Section 91003 of the Government Code is amended to read:

91003. (a) Any person residing in the jurisdiction may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this title. The court may in its discretion require any plaintiff other than the commission to file a complaint with the commission prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails his costs of litigation, including reasonable attorney's fees.

(b) Upon a preliminary showing in an action brought by a person residing in the jurisdiction that a violation of Article 1 (commencing with Section 87100) of Chapter 7 of this title or of a disqualification

provision of a Conflict of Interest Code has occurred, the court may restrain the execution of any official action in relation to which such a violation occurred, pending final adjudication. If it is ultimately determined that a violation has occurred and that the official action might not otherwise have been taken or approved, the court may set the official action aside as void. The official actions covered by this subsection include, but are not limited to orders, permits, resolutions and contracts, but do not include the enactment of any state legislation. In considering the granting of preliminary or permanent relief under this subsection, the court shall accord due weight to any injury that may be suffered by innocent persons relying on the official action.

SEC. 8. The provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill No. 1401 are both chaptered and become effective January 1, 1977, both bills amend Section 91001 of the Government Code, and this bill is chaptered after Senate Bill No. 1401, that the amendments to Section 91001 proposed by both bills be given effect and incorporated in Section 6.5 of this act. Therefore, Section 6.5 of this act shall become operative only if this bill and S.B. 1401 are both chaptered and become effective January 1, 1977, both amend Section 91001 and this bill is chaptered after S.B. 1401, in which case Section 6 of this act shall not become operative.

CHAPTER 1162

An act to add Section 33675 to, and to repeal Section 33350.1 of, the Health and Safety Code, relating to community redevelopment.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 33350.1 of the Health and Safety Code is repealed.

SEC. 2. Section 33675 is added to the Health and Safety Code, to read:

33675. (a) Prior to the adoption by the legislative body of a redevelopment plan providing for tax-increment financing pursuant to Section 33670, any affected taxing agency may elect to be allocated, in addition to the portion of taxes allocated to the affected taxing agency pursuant to subdivision (a) of Section 33670, all or any portion of the tax revenues allocated to the agency pursuant to subdivision (b) of Section 33670 attributable to increases in the rate of tax imposed for the benefit of the taxing agency which levy occurs

after the tax year in which the ordinance adopting the redevelopment plan becomes effective.

(b) The governing body of any affected taxing agency electing to receive allocation of taxes pursuant to this section in addition to taxes allocated to it pursuant to subdivision (a) of Section 33670 shall adopt a resolution to that effect and transmit the same, prior to the adoption of the redevelopment plan, to (1) the legislative body, (2) the agency, and (3) the official or officials performing the functions of levying and collecting taxes for the affected taxing agency. Upon receipt by such official or officials of such resolution, allocation of taxes pursuant to this section to the affected taxing agency which has elected to receive the allocation pursuant to this section by the adoption of such resolution shall be made at the time or times allocations are made pursuant to subdivision (a) of Section 33670.

(c) An affected taxing agency, at any time after the adoption of such resolution, may elect not to receive all or any portion of the additional allocation of taxes pursuant to this section by rescinding such resolution or by amending the same, as the case may be, and giving notice thereof to the legislative body, the agency, and the official or officials performing the functions of levying and collecting taxes for the affected taxing agency. After receipt of a notice by such official or officials that an affected taxing agency has elected not to receive all or a portion of the additional allocation of taxes by rescission or amendment of the resolution, any allocation of taxes to the affected taxing agency required to be made pursuant to this section shall not thereafter be made but shall be allocated to the agency and such affected taxing agency shall thereafter be allocated only the portion of taxes provided for in subdivision (a) of Section 33670. After receipt of a notice by such official or officials that an affected taxing agency has elected to receive additional tax revenues attributable to only a portion of the increases in the rate of tax, only that portion of the tax revenues shall thereafter be allocated to the affected taxing agency in addition to the portion of taxes allocated pursuant to subdivision (a) of Section 33670 and the remaining portion thereof shall be allocated to the agency.

(d) As used in this section, "affected taxing agency" means and includes every public agency for the benefit of which a tax is levied upon property in the project area, whether levied by the public agency or on its behalf by another public agency.

(e) This section shall apply only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) of Chapter 4 on or after January 1, 1977.

SEC. 3. 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 self-financing authority is provided in this act to cover such costs.

CHAPTER 1163

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

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. The sum of three hundred fifty thousand dollars ($350,000) is hereby appropriated from the General Fund to the State Controller to be allocated and disbursed in the following manner:

(a) The sum of three hundred thousand dollars ($300,000) for allocation and disbursement to counties for the purpose of financially assisting them for costs incurred by them in complying with the voter assistance requirements of the Voting Rights Act of 1965, as amended by Public Law 94-73, to furnish printed materials and oral assistance.

(b) The sum of fifty thousand dollars ($50,000) to the Secretary of State for the purpose of assisting the counties in providing voter assistance in designated precincts and for the purpose of making a report to the Legislature.

The Secretary of State shall determine the maximum reimbursement available to each county on the basis of the number of precincts in that county for which the clerk has found that 3 percent or more of the voting-age residents are non-English-speaking citizens as of September 1, 1976.

Each county shall be reimbursed, at a rate to be determined by the Secretary of State, for each registration secured by deputy registrars in those precincts in which the county clerk finds that 3 percent or more of the voting-age residents are non-English-speaking citizens and in which the clerk has appointed at least one precinct board official who is fluent in that language and in English. Only such claims as have been approved by the Secretary of State may be submitted to the State Controller for reimbursement under subdivision (a).

The Secretary of State shall assist the counties in determining which precincts come within the coverage of this act, and shall submit a report concerning the operation of this act to the Legislature by January 15, 1977.

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:

Under the provisions of the Voting Rights Act of 1965, as amended by Public Law 94-73, certain counties are required to furnish election services in other than the English language. In order that the funds appropriated by this act may be made available to such counties for

the 1976 general election, it is necessary that this act go into immediate effect.

CHAPTER 1164

An act to amend Section 5106 of the Civil Code, relating to employee benefit plans.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 5106 of the Civil Code is amended to read:

5106. (a) Notwithstanding the provisions of Section 5105 and 5125, whenever payment or refund is made to a participant or his beneficiary or estate pursuant to a written employee benefit plan governed by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), as amended, such payment or refund shall fully discharge the employer and any administrator, fiduciary or insurance company making such payment or refund from all adverse claims thereto unless, before such payment or refund is made, the administrator of such plan has received at its principal place of business within this state, written notice by or on behalf of some other person that such other person claims to be entitled to such payment or refund or some part thereof. Nothing contained in this section shall affect any claim or right to any such payment or refund or part thereof as between all persons other than the employer and the fiduciary or insurance company making such payment or refund. The terms "participant", "beneficiary", "employee benefit plan", "employer", "fiduciary" and "administrator" shall have the same meaning as provided in Section 3 of the Employee Retirement Income Security Act of 1974 (P.L. 93-406), as amended.

(b) Notwithstanding the provisions of Sections 5105 and 5125, whenever payment or refund is made to an employee, former employee or his beneficiary or estate pursuant to a written retirement, death or other employee benefit plan or savings plan, other than a plan governed by the Employee Retirement Income Security Act of 1974, (P.L. 93-406), as amended, such payment or refund shall fully discharge the employer and any trustee or insurance company making such payment or refund from all adverse claims thereto unless, before such payment or refund is made, the employer or former employer has received at its principal place of business within this state, written notice by or on behalf of some other person that such other person claims to be entitled to such payment or refund or some part thereof. Nothing contained in this section shall affect any claim or right to any such payment or refund or part thereof as between all persons other than the employer and

the trustee or insurance company making such payment or refund.

CHAPTER 1165

An act to amend Section 13205 of, and to add Section 13306 to, the Water Code, relating to regional water quality control boards.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 13205 of the Water Code is amended to read:

13205. Each member of a regional board shall receive fifty dollars ($50) for each day during which that member is engaged in the performance of official duties, except that no member shall be entitled to receive such fifty dollars ($50) compensation if he otherwise receives compensation from other sources for performing those duties. The total compensation for each member shall not exceed in any one fiscal year the sum of six hundred dollars ($600), and a member may decline compensation. In addition to such compensation, each member shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.

SEC. 2. Section 13306 is added to the Water Code, to read:

13306. A majority vote of the entire membership of a regional board shall be required to adopt, rescind, or modify any enforcement action authorized by Section 13301.

CHAPTER 1166

An act to amend Sections 1653, 1680, 1698.3, and 1699 of the Code of Civil Procedure, relating to the Revised Uniform Reciprocal Enforcement of Support Act of 1968.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1653 of the Code of Civil Procedure is amended to read:

1653. As used in this title unless the context requires otherwise:

(a) "Court" means the superior court of this state and when the context requires means the court of any other state as defined in a substantially similar reciprocal law.

(b) "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court whether interlocutory or final or whether incidental to a proceeding for dissolution of marriage, judgment of nullity, or for legal separation, or to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid.

(c) "Governor" includes any person performing the functions of Governor or the executive authority of any state covered by this title.

(d) "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

(e) "Law" includes both common and statutory law.

(f) "Obligee" means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(g) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support is commenced.

(h) "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

(i) "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.

(j) "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law or procedure is in effect.

(k) "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

(*l*) "Register" means to file in the Registry of Foreign Support Orders.

(m) "Registering court" means any court of this state in which a support order of a rendering state is registered.

(n) "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

SEC. 2. Section 1680 of the Code of Civil Procedure is amended to read:

1680. (a) After the responding court receives copies of the complaint, certificate and act from the initiating court the clerk of

the court shall docket the case and notify the prosecuting attorney of his action.

(b) The prosecuting attorney shall prosecute the case diligently. He shall take all action necessary to enable the court to obtain jurisdiction over the obligor or his property in accordance with law. He shall, upon being notified that the cause has been docketed either (1) request the court to issue a citation requiring defendant to appear personally at a specified time and place to show cause why an order should not be issued on the basis of the complaint on file and cause a copy of the complaint and of the citation to be served upon the obligor at least 10 days prior to the hearing or (2) request the issuance of a summons and cause a copy of the complaint and summons to be served upon the obligor.

(c) If the prosecuting attorney neglects or refuses to represent the obligee the Attorney General may order him to represent the obligee or may undertake the representation.

SEC. 3. Section 1698.3 of the Code of Civil Procedure is amended to read:

1698.3. (a) An obligee seeking to register a foreign support order in a court of this state shall transmit to the clerk of the court (1) three certified copies of the order with all modifications thereof, (2) one copy of the reciprocal enforcement of support act of the state in which the order was made, and (3) a statement verified and signed by the obligee, showing the post office address of the obligee, the last known place of residence and post office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under this chapter.

(b) Promptly upon registration the clerk of the court shall send, by any form of mail requiring a return receipt from the addressee only, to the obligor at the address given a notice of the registration with a copy of the registered support order and the post office address of the obligee. Proof shall be made to the satisfaction of the court that the obligor personally received the notice of registration by mail or other method of service. A return receipt signed by the obligor shall be satisfactory evidence of such personal receipt. He shall also docket the case and notify the prosecuting attorney of his action. The prosecuting attorney shall proceed diligently to enforce the order.

SEC. 4. Section 1699 of the Code of Civil Procedure is amended to read:

1699. (a) Upon registration the registered foreign support orders shall be treated in the same manner as a support order issued by a court of this state. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and

satisfied in like manner.

(b) The obligor has 20 days after the mailing or other service of notice of the registration in which to petition the court to vacate the registration or for other relief. If he does not so petition the registered support order is confirmed.

(c) At the hearing to enforce the registered support order the obligor may present only matters that would be available to him as defenses in an action to enforce a support judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this state may be stayed the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.

CHAPTER 1167

An act to amend Sections 1674 and 1684 of the Code of Civil Procedure, relating to reciprocal enforcement of support.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1674 of the Code of Civil Procedure is amended to read:

1674. If this state is acting as an initiating state, the prosecuting attorney, upon the request of the court or the obligee, shall represent the obligee in any proceeding under this title. If the prosecuting attorney neglects or refuses to represent the obligee, the Attorney General may order him to comply with the request of the court or may undertake the representation.

SEC. 2. Section 1684 of the Code of Civil Procedure is amended to read:

1684. The responding court shall cause a copy of all support orders to be sent to the initiating court and to the obligor.

SEC. 3. 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 duties, obligations, or responsibilities imposed on local government by this act can be accomplished with no additional cost to local government.

CHAPTER 1168

An act to add Sections 1987.1 and 1987.2 to the Code of Civil Procedure, relating to subpoena duces tecum.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1987.1 is added to the Code of Civil Procedure, to read:

1987.1. When a subpoena requires the attendance of a witness or the production of books, documents or other things before a court, or at the trial of an issue therein, the court, upon motion reasonably made by the party or the witness, or upon the court's own motion after giving counsel notice and an opportunity to be heard, may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions. In addition, the court may make any other order as may be appropriate to protect the parties or the witnesses from unreasonable or oppressive demands.

SEC. 2. Section 1987.2 is added to the Code of Civil Procedure, to read:

1987.2. In making an order pursuant to motion made under subdivision (c) of Section 1987 or under Section 1987.1, the court may in its discretion award the amount of the reasonable expenses incurred in making or opposing the motion, including reasonable attorneys' fees, if the court finds the motion was made or opposed in bad faith or without substantial justification or that one or more of the requirements of the subpoena was oppressive.

CHAPTER 1169

An act to amend Section 5013 of, and to repeal Section 1264 of, the Unemployment Insurance Code, relating to unemployment.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1264 of the Unemployment Insurance Code is repealed.

SEC. 2. Section 5013 of the Unemployment Insurance Code is amended to read:

5013. To the extent permitted by federal law the department shall not establish any priorities in assigning persons to work incentive programs that discriminate on the basis of sex.

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 1170

An act to amend Sections 270a, 270b, and 270e of the Penal Code, relating to crimes.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 270a of the Penal Code is amended to read:

270a. Every individual who has sufficient ability to provide for his or her spouse's support, or who is able to earn the means of such spouse's support, who willfully abandons and leaves his or her spouse in a destitute condition, or who refuses or neglects to provide such spouse with necessary food, clothing, shelter, or medical attendance, unless by such spouse's conduct the individual was justified in abandoning such spouse, is guilty of a misdemeanor.

SEC. 2. Section 270b of the Penal Code is amended to read:

270b. After arrest and before plea or trial, or after conviction or plea of guilty and before sentence under either Section 270 or 270a, if the defendant shall appear before the court and enter into an undertaking with sufficient sureties to the people of the State of California in such penal sum as the court may fix, to be approved by the court, and conditioned that the defendant will pay to the person having custody of such child or to such spouse, such sum per month as may be fixed by the court in order to thereby provide such minor child or such spouse as the case may be, with necessary food, shelter, clothing, medical attendance, or other remedial care, then the court may suspend proceedings or sentence therein; and such undertaking is valid and binding for two years, or such lesser time which the court shall fix; and upon the failure of defendant to comply with such undertaking, the defendant may be ordered to appear before the court and show cause why further proceedings should not be had in such action or why sentence should not be imposed, whereupon the court may proceed with such action, or pass sentence, or for good cause shown may modify the order and take a new undertaking and further suspend proceedings or sentence for a like period.

SEC. 3. Section 270e of the Penal Code is amended to read:

270e. No other evidence shall be required to prove marriage of husband and wife, or that a person is the lawful father or mother of

a child or children, than is or shall be required to prove such facts in a civil action. In all prosecutions under either Section 270a or 270 of this code, Sections 970, 971, and 980 of the Evidence Code do not apply, and both husband and wife shall be competent to testify to any and all relevant matters, including the fact of marriage and the parentage of a child or children. Proof of the abandonment and nonsupport of a spouse, or of the omission to furnish necessary food, clothing, shelter, or of medical attendance for a child or children is prima facie evidence that such abandonment and nonsupport or omission to furnish necessary food, clothing, shelter or medical attendance is willful. In any prosecution under Section 270, it shall be competent for the people to prove nonaccess of husband to wife or any other fact establishing nonpaternity of a husband. In any prosecution pursuant to Section 270, the final establishment of paternity or nonpaternity in another proceeding shall be admissible as evidence of paternity or nonpaternity.

SEC. 4. 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 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 1171

An act to amend Section 18763 of, to add Section 14.1 to, and to repeal Section 25655 of, the Business and Professions Code, to amend Section 3347 of, and to repeal Sections 1093, 1094, and 1187 of the Civil Code, to amend Section 15007 of the Corporations Code, to amend Sections 22809, 31058, 31059, 31061, 31062, 31063, 31151, 31154, 31160, and 31163 of the Education Code, to amend Sections 207, 208, 209, and 210 of the Elections Code, as added by Assembly Bill No. 2606, to amend Sections 607, 608, 609, and 611 of the Elections Code as added by Chapter 220 of the Statutes of 1976, to amend Sections 14288, 14289, 14290, and 14292 of the Elections Code as added by Senate Bill No. 1653, to amend Sections 56809 and 56892 of the Food and Agricultural Code, to amend Section 1686 of the Insurance Code, to amend Sections 2330 and 2803 of, and to add Section 12.1 to, the Labor Code, to amend Sections 150 and 723 of the Penal Code, to amend Sections 4153 and 4429 of the Public Resources Code, to amend Section 521 of the Public Utilities Code, to amend Sections 13557, 15304, and 17146.7 of the Revenue and Taxation Code, to amend Sections 11105 and 11720 of the Vehicle Code, and to amend Sections 16502.5 and 17103 of the Welfare and Institutions Code, relating to discrimination.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 14.1 is added to the Business and Professions Code, to read:

14.1. The Legislature hereby declares its intent that the terms "man" or "men" where appropriate shall be deemed "person" or "persons" and any references to the terms "man" or "men" in sections of this code be changed to "person" or "persons" when such code sections are being amended for any purpose. This act is declaratory and not amendatory of existing law.

SEC. 1.3. Section 18763 of the Business and Professions Code is amended to read:

18763. At every amateur boxing contest or sparring match held in this state, any representative of the commission shall stop such contest whenever it appears that the contestants are unevenly matched, that the contestants, or either of them, has been seriously injured, or that there is danger that the contestants, or either of them, will be seriously injured if such contest continues. Such person may call to his or her assistance in enforcing his or her order to stop the contest, as many peace officers or able-bodied citizens of the state as may be necessary.

SEC. 1.5. Section 25655 of the Business and Professions Code is repealed.

SEC. 2. Section 1093 of the Civil Code is repealed.

SEC. 3. Section 1094 of the Civil Code is repealed.

SEC. 4. Section 1187 of the Civil Code is repealed.

SEC. 5. Section 3347 of the Civil Code is amended to read:

3347. If any person slays or permanently disables another person in a duel in this state, the slayer must provide for the maintenance of the surviving spouse or spouse of the person slain or permanently disabled, and for the minor children, in such manner and at such cost, either by aggregate compensation in damages to each, or by a monthly, quarterly, or annual allowance, to be determined by the court.

SEC. 6. Section 15007 of the Corporations Code is amended to read:

15007. In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by Section 15016 persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

(a) As a debt by installments or otherwise.

(b) As wages of an employee or rent to a landlord.

(c) As an annuity to a surviving spouse or representative of a deceased partner.

(d) As interest on a loan, though the amount of payment vary with the profits of the business.

(e) As the consideration for the sale of a good will of a business or other property by installments or otherwise.

SEC. 7. Section 22809 of the Education Code is amended to read:

22809. "Parent" means the parent with whom the minor resides; or, if both parents are deceased, his or her legal guardian.

SEC. 8. Section 31058 of the Education Code is amended to read:

31058. A grantor who is a married person may further provide that his or her surviving spouse, during his or her life, may, in relation to the property conveyed, and in relation to the election, maintenance, and management of the institution, perform all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee and trustees.

SEC. 9. Section 31059 of the Education Code is amended to read:

31059. In the cases referred to in Sections 31057 and 31058, the powers and duties conferred and imposed upon the trustee or trustees shall be exercised and performed by the grantor, or by his or her spouse, during his or her life, as the case may be. Upon the death of the grantor, or the surviving spouse, as the case may be, the powers and duties shall devolve upon and shall be exercised by the trustees named in the grant, and their successors.

SEC. 10. Section 31061 of the Education Code is amended to read:

31061. The grantor may also reserve, during his or her life, the right of absolute dominion over the personal property conveyed, and also over the rents, issues, and profits of the real property conveyed, without liability to account therefor in any manner whatever, and without any liability over against his or her estate.

SEC. 11. Section 31062 of the Education Code is amended to read:

31062. A grantor who is a married person may further provide that his or her spouse, during his or her life, may have the same absolute dominion, over the personal property, and the rents, issues, and profits without liability to account therefor in any manner whatever, and without liability over against the estate of either the grantor or his or her spouse.

SEC. 12. Section 31063 of the Education Code is amended to read:

31063. The founder or founders, surviving founder, or spouse or

42060 284155 40

surviving spouse of any founder, of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, library or any other institution, or any or all thereof, founded pursuant to this article may, by an instrument in writing, resign, relinquish, and surrender all the rights, powers, privileges and duties reserved to or vesting in him or her, over, in, or concerning any of the property granted or given to the institution, or over or concerning the institution founded. Thereupon all estates, rights, powers, privileges, trusts, and duties which would otherwise vest in or devolve upon the trustee or trustees of the trusts and estates created upon the death of the person resigning, relinquishing, and surrendering, by the terms of the grant and amendments thereof, and by the terms of any grants, gifts, bequests, and devices supplementary thereto, or of any confirmatory grants, shall immediately vest in and devolve upon the trustee or trustees. Nothing herein contained shall prevent the person resigning, relinquishing and surrendering the rights, powers, privileges, or duties from thereafter becoming and serving as one of the trustees, or from becoming and serving as an officer of any board of trustees.

SEC. 13. Section 31151 of the Education Code is amended to read:

31151. The trustee or trustees of any trust or trusts created for the founding, endowment, and maintenance of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, library, or any other institution, or any or all thereof, pursuant to Sections 31051 to 31115, inclusive, may commence a special proceeding to determine all questions of law and fact affecting the existence of, and the due and voluntary execution and delivery, and the terms, validity, and legal effect of the grant founding the institution, and of all amendments or attempted amendments to the grant, and of any supplemental grants or gifts, and of any confirmatory conveyances, of the founder, or surviving founder, or spouse or surviving spouse of the founder.

SEC. 14. Section 31154 of the Education Code is amended to read:

31154. The special proceeding may also be commenced to determine all questions of law and fact affecting the due and voluntary execution and delivery, and the validity and legal effect, of any grant or surrender by any founder, surviving founder, or spouse or surviving spouse of any founder, to, or in favor of, the trustee or trustees, of any rights, powers, privileges, or duties reserved to or vesting in any such person over or concerning any property described in the petition, or over or concerning the institution, which would otherwise vest in or devolve upon the trustee or trustees upon the death of the person granting or surrendering the rights, powers, privileges, or duties, and of any relinquishment or release by the founder, surviving founder, or spouse or surviving spouse of any founder, of any other rights, powers, privileges, or duties reserved to or vesting in any such person.

SEC. 15. Section 31160 of the Education Code is amended to read:

31160. The court or judge shall fix the time for hearing the petition, and shall order the clerk of the court to post in at least three public places in the county a notice of the filing of the petition, attached to a copy of the petition, and order a copy of the notice together with a copy of the petition to be personally served upon the founder, if living, and upon the spouse or surviving spouse of any founder, and upon any living grantor or donor of any other grant or gift set out in the petition, and may order such other or further notice to be given as the judge or court may deem proper. The notice shall be posted and served at least 10 days before the hearing.

SEC. 16. Section 31163 of the Education Code is amended to read:

31163. The notice shall state the time and place fixed for the hearing of the petition and shall be addressed to the founder or founders, if living, and to the spouse or surviving spouse of any deceased founder, and the living grantor or donor of any other grant or gift set out in the petition, and in general terms to all other persons having or claiming any interest in, or rights, powers, or duties over or concerning the property described in the petition; and shall direct that they and each of them appear and answer the petition on or before the time set for the hearing. The notice shall also state that unless they so appear and demur or answer, the petitioners will apply to the court to grant the prayer of the petition, and that each person failing to so appear and answer, shall be deemed to admit as true all the material allegations of the petition.

SEC. 16.1. Section 207 of the Elections Code, as added by Assembly Bill 2606, is amended to read:

207. Married persons shall each establish their own residence except that the place where a person's family resides is his or her residence unless it is a place for temporary establishment for his or her family or for transient objects.

Residence in a trailer or vehicle or at any public camp or camping ground may constitute a residence for voting purposes if the registrant complies with the other requirements of this article.

SEC. 16.2. Section 208 of the Elections Code, as added by Assembly Bill 2606, is amended to read:

208. If a person has a family fixed in one place, and he or she does business in another, the former is his or her place of residence, but any person having a family, who has taken up his or her abode with the intention of remaining and whose family does not so reside with him or her, is a resident where he or she has so taken up his or her abode.

SEC. 16.3. Section 209 of the Elections Code, as added by Assembly Bill 2606, is amended to read:

209. The residence of the one spouse shall not be presumed to be that of the other, but shall be determined independently in

accordance with this article.

SEC. 16.4. Section 210 of the Elections Code, as added by Assembly Bill 2606, is amended to read:

210. A resident of this state who marries a person employed temporarily in this state in the service of the United States government, may elect to retain his or her residency for the purpose of qualifying as an elector only, except that such residency in this state shall terminate if such resident qualifies as an elector in any other state or any territory.

SEC. 16.6. Section 607 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

607. Married persons shall each establish their own residence except that the place where a person's family resides is his or her residence unless it is a place for temporary establishment for his or her family or for transient objects. Residence in a trailer or vehicle or at any public camp or camping ground may constitute a residence for voting purposes if the registrant complies with the other requirements of this chapter.

SEC. 16.7. Section 608 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

608. If a person has a family fixed in one place, and he or she does business in another, the former is his or her place of residence; but any person having a family, who has taken up his or her abode with the intention of remaining and whose family does not so reside with him or her, is a resident where he or she has so taken up his or her abode.

SEC. 16.8. Section 609 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

609. The residence of one spouse shall not be presumed to be that of the other, but shall be determined independently in accord with this article.

SEC. 16.9. Section 611 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

611. A resident of this state who marries a person employed temporarily in this state in the service of the United States government, may elect to retain his or her residency for the purpose of qualifying as an elector only, except that such residency in this state shall terminate if such resident qualifies as an elector in any other state or any territory.

SEC. 17. Section 14288 of the Elections Code, as added by Senate Bill 1653, is amended to read:

14288. Married persons shall establish their own residence except that the place where a person's family is domiciled is his or her domicile unless it is a place for temporary establishment for his or her family or for transient objects. Residence in a trailer or vehicle or at any public camp or camping ground may ripen into a domicile for voting purposes if the registrant complies with the other requirements of this article.

SEC. 17.1. Section 14289 of the Elections Code, as added by

Senate Bill 1653, is amended to read:

14289. If a person has a family fixed in one place, and he or she does business in another, the former is his or her place of domicile; but any person having a family, who has taken up his or her abode with the intention of remaining and whose family does not so reside with him or her, is domiciliary where he or she has so taken up his or her abode.

SEC. 17.2. Section 14290 of the Elections Code, as added by Senate Bill 1653, is amended to read:

14290. The domicile of one spouse shall not be presumed to be that of the other, but shall be determined independently in accord with this article.

SEC. 17.3. Section 14292 of the Elections Code, as added by Senate Bill 1653, is amended to read:

14292. A domiciliary of this state who marries a person employed temporarily in this state in the service of the United States government, may elect to retain his or her domicile for the purpose of qualifying as an elector only, except that such domicile in this state shall terminate if such domiciliary qualifies as an elector in any other state or any territory.

SEC. 17.5. Section 56809 of the Food and Agricultural Code is amended to read:

56809. "Registered unloader" means a person who unloads any farm product in a market. It does not, however, include any of the following:

(a) A producer of farm products, or his or her son or daughter, father, mother, or regularly employed employee.

(b) The operator of any vehicle which is engaged in the transportation of any farm product to market if the operation of such vehicle is subject to the jurisdiction of the Public Utilities Commission and the rate which is charged for such transportation includes the charge for unloading the farm product which is so transported.

SEC. 18. Section 56892 of the Food and Agricultural Code is amended to read:

56892. Every producer who transports any farm product to a market may register himself or herself, his or her parents, and his or her sons or daughters, and regular full-time employees, with the commissioner. Such registration shall show the name of the producer, the registration number and other means of identification of his or her own personally owned vehicles, and the relationship of the registrant to the producer.

This chapter does not prohibit a person so registered from unloading any farm product from a vehicle as to which he or she is so registered, and no such person is required to employ any other person to unload or assist in unloading such farm product nor to pay for any services which are not requested to be performed. The commissioner shall supply each such registrant with an appropriate card, which the registrant shall carry at all times while engaged in

unloading any farm product at a market.

SEC. 19. Section 1686 of the Insurance Code is amended to read:

1686. To be eligible for an estate certificate of convenience, a person must be:

(a) The executor or administrator of the estate of a deceased insurance agent, insurance broker or life agent; or

(b) If no executor or administrator has been appointed, the surviving spouse or heir otherwise entitled to conduct the business of such deceased insurance agent, insurance broker or life agent; or

(c) The guardian of the estate of an incompetent insurance agent, insurance broker or life agent.

SEC. 20. Section 12.1 is added to the Labor Code, to read:

12.1. The Legislature hereby declares its intent that the terms "man" or "men" where appropriate shall be deemed "person" or "persons" and any references to the terms "man" or "men" in sections of this code be changed to "person" or "persons" when such code sections are being amended for any purpose. This section is declaratory and not amendatory of existing law.

SEC. 21. Section 2330 of the Labor Code is amended to read:

2330. The owner or manager of every foundry or metal shop engaged in the casting, fabricating, or working over in any manner of any metal or compound, where one or more persons are employed, shall maintain for the use of the employees wash bowls, sinks or other appliances and a water closet connected with running water.

SEC. 22. Section 2803 of the Labor Code is amended to read:

2803. When death, whether instantaneously or otherwise, results from an injury to an employee caused by the want of ordinary or reasonable care of an employer or of any officer, agent, a servant of the employer, the personal representative of such employee shall have a right of action therefor against such employer, and may recover damages in respect thereof, for and on behalf of the surviving spouse, children, dependent parents, and dependent brothers and sisters, in order of precedence as stated, but no more than one action shall be brought for such recovery.

SEC. 23. Section 150 of the Penal Code is amended to read:

150. Every able-bodied person above 18 years of age who neglects or refuses to join the posse comitatus or power of the county, by neglecting or refusing to aid and assist in taking or arresting any person against whom there may be issued any process, or by neglecting to aid and assist in retaking any person who, after being arrested or confined, may have escaped from such arrest or imprisonment, or by neglecting or refusing to aid and assist in preventing any breach of the peace, or the commission of any criminal offense, being thereto lawfully required by any uniformed peace officer or by any judge, is punishable by fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000).

SEC. 24. Section 723 of the Penal Code is amended to read:

723. ($36.) When a sheriff or other public officer authorized to

execute process finds, or has reason to apprehend that resistance will be made to the execution of the process, the officer may command as many able-bodied inhabitants of the officer's county as he or she may think proper to assist in overcoming the resistance, and, if necessary, in seizing, arresting, and confining the persons resisting, their aiders and abettors.

SEC. 25. Section 4153 of the Public Resources Code is amended to read:

4153. The State Forester or duly authorized agent may summon any able-bodied person to assist in suppressing any forest fire and may authorize any officer of the state, who is charged with the prevention and suppression of fire or the enforcement of the state fire laws, to summon any able-bodied person to assist in suppressing any forest fire within their respective jurisdictions. An able-bodied person who is engaged in the harvest of perishable agricultural crops shall not, however, be summoned to assist in suppressing any forest fire until all other available workpower has been exhausted within the respective jurisdiction of the officer issuing such summons. No member in good standing of any regularly organized fire department shall be summoned if available and subject to call for duty with a firefighting unit.

SEC. 25.5. Section 4429 of the Public Resources Code is amended to read:

4429. During any time of the year when burning permits are required in an area pursuant to this article, at any camp maintained in such area for the residence of employees, or at any local headquarters in such area of any industrial, agricultural, or other operations on or near any forest-covered land or brush-covered land, there shall be provided and maintained at all times, in a specific location, for firefighting purposes only, a sufficient supply of serviceable tools to equip 50 percent of the able-bodied, personnel, resident of such camp, or working out of such headquarters, for fighting fires. Among these tools shall be included shovels, axes, saws, backpack pumps, and scraping tools. With such tools there shall also be one serviceable headlight adaptable for attachment to at least one-half of the tractor-bulldozers used on the operation, and a sufficient number of canteens and flashlights to equip a third of the able-bodied personnel.

SEC. 26. Section 521 of the Public Utilities Code is amended to read:

521. As used in this article "employees" includes furloughed, pensioned, and superannuated employees of any common carrier subject to the provisions of this part, persons who have become disabled or infirm in the service of any such carrier, ex-employees traveling for the purpose of entering the service of any such carrier, and the remains of persons dying while in the employment of any such carrier; and "families" includes the families of such persons and the families of persons killed, and the surviving spouses until remarried and minor children during minority of persons who died

while in the service of any such carrier.

SEC. 27. Section 13557 of the Revenue and Taxation Code is amended to read:

13557. For the purpose of this part, the spouse has the same interest in all community property, whenever acquired, if the property is community because of the manner of its acquisition by the spouses, that such spouse has in community property acquired since July 29, 1927.

SEC. 28. Section 15304 of the Revenue and Taxation Code is amended to read:

15304. For the purpose of this part, the spouse has the same interest in all community property, whenever acquired, if the property is community because of the manner of its acquisition by the spouses, that such spouse has in community property acquired since July 29, 1927.

SEC. 29. Section 17146.7 of the Revenue and Taxation Code is amended to read:

17146.7. Gross income does not include pensions and retirement pay received by an individual for his services as a member of the armed forces of the United States, including any auxiliary branch thereof, up to and including one thousand dollars ($1,000) per annum in the aggregate. In the case of a taxpayer whose adjusted gross income (determined without regard to the income exclusion provided in the preceding sentence) for the taxable year exceeds fifteen thousand dollars ($15,000), the amount of the exclusion allowed by this section shall be reduced by fifty cents ($0.50) for each one dollar ($1) of such income in excess of fifteen thousand dollars ($15,000). For purposes of this section, if the taxpayer is married during any period of the taxable year, there shall be taken into account the combined adjusted gross income of the taxpayer and his or her spouse for such period. However, in the case where a taxpayer and his or her spouse each are qualified to claim the income exemption provided by this section, half of their combined adjusted gross income shall be attributable to each spouse.

SEC. 30. Section 11105 of the Vehicle Code is amended to read:

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

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

(1) Compliance with the provisions of Section 11102.

(2) Payment of an annual application fee, in the amounts specified in Sections 11102.5 and 11104, respectively.

(3) Satisfactory completion of an examination at least once during each succeeding four-year period after the initial issuance of a license certificate.

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

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

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

SEC. 31. Section 11720 of the Vehicle Code is amended to read:

11720. The department may issue a certificate of convenience to the executor, executrix, administrator or administratrix of the estate of a deceased holder of validly outstanding special plates and license issued under this article, or if no executor, executrix, administrator or administratrix has been appointed, and until a certified copy of an order making such appointment is filed with the department, to the surviving spouse or other heir otherwise entitled to conduct the business of the deceased, permitting such person to exercise the privileges granted by such special plates and license for a period of one year from and after the date of death and necessary one-year renewals thereafter, pending, but not later than, disposal of the business and qualification of the vendee of the business or such surviving spouse, heir or other persons for such special plates and license under the provisions of this article. The department may restrict or condition the license and attach to the exercise of the

privileges thereunder such terms and conditions as in its judgment the protection of the public requires.

SEC. 32. Section 16502.5 of the Welfare and Institutions Code is amended to read:

16502.5. As used in this chapter, "child protective services" means public social services which supplement, or substitute for, parental care and supervision for the purpose of preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children, protecting and caring for homeless, dependent, or neglected children, protecting and promoting the welfare of children of single working parents, not in conflict with federal law, and otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day care or other child care facilities.

SEC. 33. Section 17103 of the Welfare and Institutions Code is amended to read:

17103. Neither the domicile nor residence of a spouse shall be deemed to be the domicile or residence of the other spouse, and each spouse shall establish his or her own domicile or residence dependent upon proof of the fact and not upon legal presumptions.

SEC. 34. In furtherance of the declared legislative intent of this act, forms and printed materials used by any public agency, insurer, or person which incorporate the terms "man" or "men" shall be modified to substitute the terms "person" or "persons" only after the present supply of such forms and materials is exhausted.

SEC. 35. It is the intent of the Legislature that if this bill and Assembly Bill No. 2606 or Senate Bill No. 1653, or both are chaptered and become effective 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, Assembly Bill No. 2606, and Senate Bill No. 1653, are all chaptered, Assembly Bill No. 2606 is chaptered after Senate Bill No. 1653 and this bill is chaptered last, or if Senate Bill No. 1653 is not chaptered, Assembly Bill No. 2606 is chaptered, and this bill is chaptered last, Sections 16.1, 16.2, 16.3, and 16.4 of this act shall become operative and Sections 16.6, 16.7, 16.8, 16.9, 17, 17.1, 17.2, and 17.3 of this act shall not become operative.

(2) If this bill, Assembly Bill No. 2606, and Senate Bill No. 1653 are all chaptered, Senate Bill No. 1653 is chaptered after Assembly Bill No. 2606, and this bill is chaptered last, or if Assembly Bill No. 2606 is not chaptered, Senate Bill No. 1653 is chaptered and this bill is chaptered last, Sections 17, 17.1, 17.2, and 17.3 of this act shall become operative and Sections 16.1, 16.2, 16.3, 16.4, 16.6, 16.7, 16.8, and 16.9 of this act shall not become operative.

It is the further intent of the Legislature that if neither Assembly Bill No. 2606 nor Senate Bill No. 1653 is chaptered, Sections 16.6, 16.7, 16.8, and 16.9 of this act shall become operative and Sections 16.1,

16.2, 16.3, 16.4, 17, 17.1, 17.2, and 17.3 of this act shall not become operative.

CHAPTER 1172

An act to amend Sections 310 and 14226 of, and to repeal and add Article 2 (commencing with Section 200) of Chapter 1 of, and Chapter 3 (commencing with Section 600) of, Division 1 of, the Elections Code, relating to elections.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. 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 give 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. 2. Chapter 3 (commencing with Section 600) of Division 1 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is repealed.

SEC. 3. Chapter 3 (commencing with Section 600) of Division 1 is added to the Elections Code, to read:

CHAPTER 3. DETERMINATION OF RESIDENCE AND DOMICILE

600. (a) Except as provided in this chapter, the term "residence" as used in this code for voting purposes means a person's domicile.

(b) The domicile of a person is that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one domicile.

(c) The residence of a person, as used in this chapter, is that place in which the person's habitation is fixed for some period of time, but wherein he does not have the intention of remaining. At a given time, a person may have more than one residence.

601. The term of domicile is computed by including the day on which the person's domicile commenced and by excluding the day of the election.

602. A person does not gain or lose a domicile solely by reason of his or her presence at or absence from a place while employed in the service of the United States or of this state, nor while engaged in navigation, nor while a student of any institution of learning, nor while kept in an almshouse, asylum, or prison. This section shall not be construed to prevent a student at an institution of learning from qualifying as an elector in the locality where he or she domiciles while attending that institution, when in fact the student has abandoned his or her former domicile.

603. A person who leaves his or her home to go into another state or precinct in this state for temporary purposes merely, with the intention of returning, does not lose his or her domicile.

604. A person does not gain a domicile in any precinct into which he or she comes for temporary purposes merely, without the

intention of making that precinct his or her home.

605. If a person removes to another state with the intention of making it his or her domicile, he or she loses his or her domicile in this state. However, if such person moves 29 days or less prior to an election at which presidential electors are to be selected, he or she may apply for a "new resident" ballot under the provisions of Chapter 4 (commencing with Section 750) of Division 1.

606. If a person removes to another state as a place of permanent residence, with the intention of remaining there for an indefinite time, he or she loses his or her domicile in this state, notwithstanding that he or she entertains an intention of returning at some future period.

607. The place where a person's family is domiciled is his or her domicile unless it is a place for temporary establishment for his or her family or for transient objects. Residence in a trailer or vehicle or at any public camp or camping ground may ripen into a domicile for voting purposes if the registrant complies with the other requirements of this chapter.

608. If a person has a family fixed in one place, and he or she does business in another, the former is his or her place of domicile; but any person having a family, who has taken up an abode with the intention of remaining and whose family does not so reside with him or her, is domiciliary where he or she has so taken up the abode.

609. The domicile of one spouse shall not be presumed to be that of the other, but shall be determined independently in accord with this chapter.

610. The mere intention to acquire a new domicile, without the fact of removal avails neither, neither does the fact of removal without the intention.

611. A domiciliary of this state who marries a person employed temporarily in this state in the service of the United States government, may elect to retain his or her domicile for the purpose of qualifying as an elector only, except that such domicile in this state shall terminate if such domiciliary qualifies as an elector in any other state or any territory.

612. If a person has more than one residence and such person maintains a homeowner's property tax exemption on the dwelling of one of the residences pursuant to Section 218 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the homeowner's property tax exemption is that person's domicile; provided, however, that such presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card, or vehicle registration issued to such person by, and on file with, the Department of Motor Vehicles.

If a person has more than one residence and such person claims a renter's tax credit for one of the residences pursuant to Section 17053.5 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the renter's tax

credit is that person's domicile; provided, however, that such presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card, or vehicle registration issued to such person by, and on file with, the Department of Motor Vehicles.

This section shall not be applicable to state or federal elected officials.

613. Except as provided in this chapter, if a person has more than one residence and such person has not physically resided at any one of such residences within the immediate preceding year, there shall be a rebuttable presumption that those residences in which he or she has not so resided within the immediate preceding year are merely residences as defined in subdivision (c) of Section 600, and not his or her domicile.

614. As used in this chapter, a rebuttable presumption shall be deemed a presumption which affects the burden of producing evidence.

SEC. 3.5. Article 2 (commencing with Section 200) of Chapter 1 of Division 1 of the Elections Code, as added to the Elections Code by Assembly Bill No. 2606, is repealed.

SEC. 4. Article 2 (commencing with Section 200) is added to Chapter 1 of Division 1 of the Elections Code, to read:

Article 2. Determination of Residence and Domicile

200. (a) Except as provided in this article, the term "residence" as used in this code for voting purposes means a person's domicile.

(b) The domicile of a person is that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one domicile.

(c) The residence of a person, as used in this article, is that place in which the person's habitation is fixed for some period of time, but wherein he or she does not have the intention of remaining. At a given time, a person may have more than one residence.

201. The term of domicile is computed by including the day on which the person's domicile commenced and by excluding the day of the election.

202. (a) A person who leaves his or her home to go into another state or precinct in this state for temporary purposes merely, with the intention of returning, does not lose his or her domicile.

(b) A person does not gain a domicile in any precinct into which he or she comes for temporary purposes merely, without the intention of making that precinct his or her home.

203. If a person moves to another state with the intention of making it his or her domicile, the voter loses his or her domicile in this state.

204. If a person moves to another state as a place of permanent

residence, with the intention of remaining there for an indefinite time, he or she loses his or her domicile in this state, notwithstanding that he or she intends to return at some future time.

205. The mere intention to acquire a new domicile, without the fact of removal avails nothing, neither does the fact of removal without the intention.

206. A person does not gain or lose a domicile solely by reason of his or her presence or absence from a place while employed in the service of the United States or of this state, nor while engaged in navigation, nor while a student of any institution of learning, nor while kept in an almshouse, asylum or prison. This section shall not be construed to prevent a student at an institution of learning from qualifying as an elector in the locality where he or she domiciles while attending that institution, when in fact the student has abandoned his or her former domicile.

207. The place where a person's family is domiciled is his or her domicile unless it is a place for temporary establishment for his or her family or for transient objects.

Residence in a trailer or vehicle or at any public camp or camping ground may constitute a domicile for voting purposes if the registrant complies with the other requirements of this article.

208. If a person has a family fixed in one place, and he or she does business in another, the former is his or her place of domicile, but any person having a family, who has taken up an abode with the intention of remaining and whose family does not so reside with him or her, is a domiciliary where he or she has so taken up the abode.

209. The domicile of one spouse shall not be presumed to be that of the other, but shall be determined independently in accordance with this article.

210. A domiciliary of this state who marries a person employed temporarily in this state in the service of the United States government, may elect to retain his or her domicile for the purpose of qualifying as an elector only, except that such domicile in this state shall terminate if such domiciliary qualifies as an elector in any other state or any territory.

211. If a person has more than one residence and such person maintains a homeowner's property tax exemption on the dwelling of one of the residences pursuant to Section 218 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the homeowner's property tax exemption is that person's domicile; provided, however, that such presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card, or vehicle registration issued to such person by, and on file with, the Department of Motor Vehicles.

If a person has more than one residence and such person claims a renter's tax credit for one of the residences pursuant to Section 17053.5 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the renter's tax

credit is that person's domicile; provided, however, that such presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card, or vehicle registration issued to such person by, and on file with, the Department of Motor Vehicles.

This section shall not be applicable to state or federal elected officials.

212. Except as provided in this article, if a person has more than one residence and such person has not physically resided at any one of such residences within the immediate preceding year, there shall be a rebuttable presumption that those residences in which he or she has not so resided within the immediate preceding year are merely residences as defined in subdivision (c) of Section 200 and not his or her domicile.

214. As used in this article, a rebuttable presumption shall be deemed a presumption which affects the burden of producing evidence.

215. Whenever the house number or the mailing address of a voter has been changed and the voter's domicile is the same, the public agency authorizing the change shall notify the county clerk in writing of the change and the county clerk shall make the change on the voter's affidavit of registration and a new affidavit shall not be required.

216. Except as otherwise provided in this section, a person domiciled in a house or apartment lying in more than one precinct shall be registered as domiciled in that one of those precincts designated by him or her at the time he or she registers. In the absence of such designation the county clerk shall register the person as domiciled in that one of those precincts that he or she considers appropriate. If a person is domiciled in a house or apartment lying in more than one city, the person's domicile shall be determined on the basis of the street address.

217. A person duly registered as a voter in any precinct in California who removes therefrom within 29 days prior to an election shall, for the purpose of such election, be entitled to vote in the precinct from which the person so removed until the close of the polls on the date of such election.

SEC. 4.5. Section 14226 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

14226. The precinct board in determining the place of residence of any person, shall be governed by the rules set forth in Article 2 (commencing with Section 200) of Chapter 1 of Division 1.

SEC. 5. If Assembly Bill No. 2606 and this bill are both chaptered and become operative, Section 3 of this bill shall not become operative, and Sections 3.5 and 4 of this bill shall become operative.

If Assembly Bill No. 2606 is not chaptered, and this bill is chaptered, Section 3 of this bill shall become operative, but Sections 3.5 and 4 of this bill shall not become operative.

SEC. 6. Section 4.5 of this bill shall become operative if and only

if Assembly Bill No. 2606 and this bill are both chaptered and become operative.

CHAPTER 1173

An act to add Section 1373.1 to the Health and Safety Code, and to amend Sections 10126 and 11512.6 of the Insurance Code, relating to health insurance.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 1373.1 is added to the Health and Safety Code, to read:

1373.1. Every group plan entered into, amended, or renewed on or after January 1, 1977, which provides hospital, medical, or surgical expense benefits for employees or subscribers and their dependents, and which contains provisions granting the employee or subscriber the right to convert the coverage in the event of termination of employment or membership, shall include in such conversion provisions the same conversion rights and conditions to a covered dependent spouse of the employee or subscriber in the event the covered dependent spouse ceases to be a qualified family member by reason of termination of marriage or death of the employee or subscriber. Such conversion rights shall not require a physical examination or a statement of health.

SEC. 2. Section 10126 of the Insurance Code is amended to read:

10126. Every policy of group disability insurance issued, amended, or renewed on or after January 1, 1977, which provides hospital, medical, or surgical expense benefits for employees or members and their dependents and which contains provisions granting the employee or member the right to convert the insurance coverage in the event of termination of employment or membership, shall include in such conversion provisions the same conversion rights and conditions to a covered dependent spouse of the employee or member in the event the covered dependent spouse ceases to be a qualified family member by reason of termination of marriage or death of the employee or member. Such conversion rights shall not require a physical examination or a statement of health.

SEC. 3. Section 11512.6 of the Insurance Code is amended to read:

11512.6. Every group hospital service contract entered into, amended, or renewed on or after January 1, 1977, which provides hospital, medical, or surgical expense benefits for employees or members and their dependents and which contains provisions granting the employee or member the right to convert the insurance

coverage in the event of termination of employment or membership, shall include in such conversion provisions the same conversion rights and conditions to a covered dependent spouse of the employee or member in the event the covered dependent spouse ceases to be a qualified family member by reason of termination of marriage or death of the employee or member. Such conversion rights shall not require a physical examination or a statement of health.

CHAPTER 1174

An act to amend Section 1735 of the Labor Code, and to amend Section 453 of the Public Utilities Code, relating to sex discrimination.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1735 of the Labor Code is amended to read:

1735. No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such persons, except as provided in Section 1420, and every contractor for public works violating this section is subject to all the penalties imposed for a violation of this chapter.

SEC. 2. Section 453 of the Public Utilities Code, as amended by Chapter 447 of the Statutes of 1975, is amended to read:

453. (a) No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage.

(b) No public utility shall prejudice, disadvantage, or require different rates or deposit amounts from a person because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, occupation, sex, marital status or change in marital status. A person who has exhausted all administrative remedies with the commission may institute a suit for injunctive relief and reasonable attorney's fees in cases of an alleged violation of this subdivision. If successful in litigation, the prevailing party shall be awarded attorney's fees.

(c) No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

(d) No public utility shall include with any bill for services or commodities furnished any customer or subscriber any advertising or literature designed or intended (1) to promote the passage or defeat of a measure appearing on the ballot at any election whether

local, statewide, or national, (2) to promote or defeat any candidate for nomination or election to any public office, (3) to promote or defeat the appointment of any person to any administrative or executive position in federal, state or local government, or (4) to promote or defeat any change in federal, state, or local legislation or regulations.

(e) The commission may determine any question of fact arising under this section.

SEC. 3. Section 453 of the Public Utilities Code, as amended by Chapter 447 of the Statutes of 1975, is amended to read:

453. (a) No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage.

(b) No public utility shall prejudice, disadvantage, or require different rates or deposit amounts from a person because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, occupation, sex, marital status or change in marital status. A person who has exhausted all administrative remedies with the commission may institute a suit for injunctive relief and reasonable attorney's fees in cases of an alleged violation of this subdivision. If successful in litigation, the prevailing party shall be awarded attorney's fees.

(c) No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

(d) No public utility shall include with any bill for services or commodities furnished any customer or subscriber any advertising or literature designed or intended (1) to promote the passage or defeat of a measure appearing on the ballot at any election whether local, statewide, or national, (2) to promote or defeat any candidate for nomination or election to any public office, (3) to promote or defeat the appointment of any person to any administrative or executive position in federal, state or local government, or (4) to promote or defeat any change in federal, state, or local legislation or regulations; provided that until December 31, 1976, any such prohibitions shall not apply to any notice or statement relating to matters affecting rates or service to customers or subscribers where the public utility has requested and received the prior approval of the commission.

(e) The commission may determine any question of fact arising under this section.

SEC. 4. 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 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 and school districts which, in the aggregate, do not result in

significant identifiable cost changes

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill No. 1683 are both chaptered and become effective on or before January 1, 1977, both bills amend Section 453 of the Public Utilities Code, and this bill is chaptered after Senate Bill No. 1683, that Section 453 of the Public Utilities Code, as amended by Section 1 of Senate Bill No. 1683, be further amended on the effective date of this act in the form set forth in Section 3 of this act to incorporate the changes in Section 453 proposed by this bill. Therefore, if this bill and Senate Bill No. 1683 are both chaptered and become effective on or before January 1, 1977, and Senate Bill No. 1683 is chaptered before this bill and amends Section 453, Section 3 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 497 are both chaptered and become effective on or before January 1, 1977, both bills amend Section 453 of the Public Utilities Code, and this bill is chaptered after Assembly Bill No. 497, that Section 453 of the Public Utilities Code, as amended by Section 1 of Assembly Bill No. 497, be further amended on the effective date of this act in the form set forth in Section 3 of this act to incorporate the changes in Section 453 proposed by this bill. Therefore, if this bill and Assembly Bill No. 497 are both chaptered and become effective on or before January 1, 1977, and Assembly Bill No. 497 is chaptered before this bill and amends Section 453, Section 3 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

CHAPTER 1175

An act to add Section 3074.1 to the Labor Code, relating to apprenticeship.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 3074.1 is added to the Labor Code, to read:

3074.1. In compliance with the affirmative action requirements of California's plan for equal opportunity in apprenticeship, school districts maintaining high schools, community colleges districts, and apprenticeship program sponsors, shall provide students with information as to the availability of apprenticeship programs.

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 duties, obligations or responsibilities imposed on local

governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1176

An act to amend Section 91 of the Education Code, relating to public schools.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 91 of the Education Code is amended to read:

91. (a) It is the policy of the state that elementary and secondary school and community college classes and courses, including nonacademic and elective classes and courses be conducted, without regard to the sex of the pupils enrolled in such classes and courses.

(b) No school district shall prohibit any pupil from enrolling in any class or course on the basis of the sex of the pupil, except a class subject to Section 8506.

(c) No school district shall require pupils of one sex to enroll in a particular class or course, unless the same class or course is also required of pupils of the opposite sex.

(d) No school counselor, teacher, administrator, or aide shall, on the basis of the sex of a pupil, offer vocational or school program guidance to pupils of one sex which is different from that offered to pupils of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the pupil counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with such pupil the possibility of careers, or courses leading to such careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section 10921, in advance of career counseling and course selection commencing with course selection for the seventh grade so that they may participate in such counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of pupils of one sex, shall be available to pupils of each sex.

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 by this act are such that related costs are incurred as a part

of their normal operating procedures.

CHAPTER 1177

An act to repeal Article 1 (commencing with Section 1250) of Chapter 2 of Part 4 of Division 2 of the Labor Code, relating to labor.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Article 1 (commencing with Section 1250) of Chapter 2 of Part 4 of Division 2 of the Labor Code is repealed.

CHAPTER 1178

An act to amend Sections 867 and 868 of the Penal Code, relating to preliminary examinations.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 867 of the Penal Code is amended to read:

867. While a witness is under examination, the magistrate may exclude all potential and actual witnesses who have not been examined. He may also cause the witnesses to be kept separate, and to be prevented from conversing with each other until they are all examined.

SEC. 2. Section 868 of the Penal Code is amended to read:

868. The magistrate must also, upon the request of the defendant, exclude from the examination every person except his clerk, court reporter and bailiff, the prosecutor and his counsel, the Attorney General, the district attorney of the county, the investigating officer, the officer having custody of a prisoner witness while the prisoner is testifying, the defendant and his counsel, and the officer having the defendant in custody; provided, however, that a prosecuting witness may, in the discretion of the court, be entitled for moral support to the attendance of one person of his or her own choosing otherwise not a witness. The person so chosen shall not discuss prior to or during the preliminary hearing the testimony of the prosecuting witness with any person, other than the prosecuting witness, who is a witness in the examination. Nothing in this section shall affect the right to exclude witnesses as provided in Section 867 of the Penal Code.

CHAPTER 1179

An act to amend Section 1070 of the Education Code, and to amend Sections 1777.5, 1777.6, 3071, 3073, 3075, 3076, 3077.5, and 3096 of, and to add Sections 3074.3, and 3075.1 to, the Labor Code, relating to apprenticeship, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 1777.5 of the Labor Code is amended to read:

1777.5. Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he is employed, and shall be employed only at the work of the craft or trade to which he is registered.

Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing at Section 3070), Division 3, of the Labor Code, are eligible to be employed on public works. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he is training.

When the contractor to whom the contract is awarded by the state or any political subdivision, or any subcontractor under him, in performing any of the work under the contract or subcontract, employs workmen in any apprenticeable craft or trade, the contractor and subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work for a certificate approving the contractor or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected; provided, however, that the action by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject contractor or subcontractor, shall notify the appropriate dispatch agency of such approval in order for the contractor or subcontractor to comply with this section. There shall be an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the craft or trade in the area of the site of the public work to ensure equal employment and affirmative action in apprenticeship for women and minorities. Contractors or subcontractors shall not be required

to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of apprentices to journeymen who shall be employed in the craft or trade on the public work may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but in no case shall the ratio be less than one apprentice for each five journeymen, except as otherwise provided in this section.

The contractor or subcontractor, if he is covered by this section, upon the issuance of the approval certificate, or if he has been previously approved in such craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the contractor that he employs apprentices in such craft or trade in the state on all of his contracts on an annual average of not less than one apprentice to each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 ratio as set forth in this section. This section shall not apply to contracts of general contractors involving less than thirty thousand dollars ($30,000) or 20 working days or to contracts of specialty contractors not bidding for work through a general or prime contractor, involving less than two thousand dollars ($2,000) or fewer than five working days.

"Apprenticeable craft or trade," as used in this section, shall mean a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(a) In the event unemployment for the previous three-month period in such area exceeds an average of 15 percent, or

(b) In the event the number of apprentices in training in such area exceeds a ratio of 1 to 5, or

(c) If there is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either (1) on a statewide basis, or (2) on a local basis.

(d) If assignment of an apprentice to any work performed under a public works contract would create a condition which would jeopardize his life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

The Administrator of Apprenticeship's may grant an exemption pursuant to this section to an organization which represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis. In such cases member contractors will not be

03676 284585 126

required to submit individual applications for approval to the local joint apprenticeship committees, provided they are already covered by the local apprenticeship standards.

A contractor to whom the contract is awarded, or any subcontractor under him, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any such craft or trade in the area of the site of the public work, to which fund or funds other contractors in the area of the site of the public work are contributing, shall contribute to the fund or funds in each craft or trade in which he employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as the other contractors do, but where the trust fund administrators are unable to accept such funds, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. The contractor or subcontractor may add the amount of such contributions in computing his bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of such contributions to the fund or funds as set forth in Section 227.

The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. Such stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

All decisions of the joint apprenticeship committee under this section are subject to the provisions of Section 3081.

SEC. 2. Section 1777.5 of the Labor Code is amended to read:

1777.5. Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he is employed, and shall be employed only at the work of the craft or trade to which he is registered.

Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing at Section 3070), Division 3, of the Labor Code, are eligible to be employed on public works. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he is training.

When the contractor to whom the contract is awarded by the state or any political subdivision, or any subcontractor under him, in performing any of the work under the contract or subcontract, employs workmen in any apprenticeable craft or trade, the contractor and subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work for a certificate approving the contractor or subcontractor under the apprenticeship

standards for the employment and training of apprentices in the area or industry affected; provided, however, that the approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject contractor or subcontractor, shall arrange for the dispatch of apprentices to the contractor or subcontractor in order to comply with this section. There shall be an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the craft or trade in the area of the site of the public work to ensure equal employment and affirmative action in apprenticeship for women and minorities. Contractors or subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of apprentices to journeymen who shall be employed in the craft or trade on the public work may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but in no case shall the ratio be less than one apprentice for each five journeymen, except as otherwise provided in this section.

The contractor or subcontractor, if he is covered by this section, upon the issuance of the approval certificate, or if he has been previously approved in such craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the contractor that he employs apprentices in such craft or trade in the state on all of his contracts on an annual average of not less than one apprentice to each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 ratio as set forth in this section. This section shall not apply to contracts of general contractors involving less than thirty thousand dollars ($30,000) or 20 working days or to contracts of specialty contractors not bidding for work through a general or prime contractor, involving less than two thousand dollars ($2,000) or fewer than five working days.

"Apprenticeable craft or trade," as used in this section, shall mean a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(a) In the event unemployment for the previous three-month period in such area exceeds an average of 15 percent, or

(b) In the event the number of apprentices in training in such area exceeds a ratio of 1 to 5, or

(c) If there is a showing that the apprenticeable craft or trade is

replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either (1) on a statewide basis, or (2) on a local basis.

(d) If assignment of an apprentice to any work performed under a public works contract would create a condition which would jeopardize his life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

When such exemptions are granted to an organization which represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, provided they are already covered by the local apprenticeship standards.

A contractor to whom the contract is awarded, or any subcontractor under him, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any such craft or trade in the area of the site of the public work, to which fund or funds other contractors in the area of the site of the public work are contributing, shall contribute to the fund or funds in each craft or trade in which he employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as the other contractors do, but where the trust fund administrators are unable to accept such funds, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. The contractor or subcontractor may add the amount of such contributions in computing his bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of such contributions to the fund or funds as set forth in Section 227.

The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. Such stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

All decisions of the joint apprenticeship committee under this section are subject to the provisions of Section 3081.

SEC. 3. Section 1777.6 of the Labor Code is amended to read:

1777.6. It shall be unlawful for an employer or a labor union to refuse to accept otherwise qualified employees as registered apprentices on any public works, on the ground of the race, religious creed, color, national origin, ancestry, sex, or age, except as provided in Section 3077, of such employee.

SEC. 4. Section 3071 of the Labor Code is amended to read:

3071. The California Apprenticeship Council shall meet at the call of the Director of Industrial Relations and shall aid him in formulating policies for the effective administration of this chapter.

Thereafter the California Apprenticeship Council shall meet quarterly at a designated date and special meetings may be held at the call of the chairman. The California Apprenticeship Council shall establish standards for minimum wages, maximum hours, working conditions for apprentice agreements, hereinafter in this chapter referred to as labor standards, which in no case shall be lower than those prescribed by this chapter; shall issue such rules and regulations as may be necessary to carry out the intent and purpose of this chapter, which shall include regulations governing equal opportunities in apprenticeship, affirmative action programs which include women and minorities in apprenticeship, and other on-the-job training, and criteria for selection procedures with a view particularly toward eliminating criteria not relevant to qualification for training employment or more stringent than is reasonably necessary; shall foster, promote, and develop the welfare of the apprentice and industry, improve the working conditions of apprentices, and advance their opportunities for profitable employment; shall insure that selection procedures are impartially administered to all applicants for apprenticeship; shall gather and promptly disseminate information through apprenticeship and training information centers; and shall maintain on public file in all high schools and field offices of the Department of Employment Development the name and location of the local area apprenticeship committees, the filing date, and minimum requirements for application of all registered apprenticeship programs. The California Apprenticeship Council shall make biennial reports through the Director of Industrial Relations of its activities and findings to the Legislature and to the public.

SEC. 5. Section 3073 of the Labor Code is amended to read:

3073. The administrator, or his duly authorized representative shall administer the provisions of this chapter; act as secretary of the California Apprenticeship Council; cooperate in the formation of joint apprenticeship committees and advise with them on problems affecting labor standards; may enter joint agreements with the Employment Development Department outreach education and employment programs, and educational institutions on the operation of apprenticeship information centers, including positive efforts to achieve information on equal opportunity and affirmative action programs for women and minorities; shall supervise and recommend apprenticeship agreements as to these standards and perform such other duties associated therewith as the California Apprenticeship Council may recommend. The administrator shall coordinate the exchange, by the California Apprenticeship Council, the apprenticeship program sponsors, the Fair Employment Practices Commission, community organizations, and other interested persons, of information on available minorities and women who may serve as apprentices.

SEC. 5.5. Section 3074.3 is added to the Labor Code, to read:

3074.3. In providing related and supplemental instruction

pursuant to Section 3074, and notwithstanding the provisions of Sections 5753 and 5753.1 and subdivisions (c) and (d) of Section 11251 of the Education Code, the Superintendent of Public Instruction and the Chancellor of the California Community Colleges shall recognize registration in an apprenticeship program approved by the Division of Apprenticeship Standards in the Department of Industrial Relations as an acceptable prerequisite to enrollment into such related and supplemental classes of instruction.

SEC. 6. Section 3075 of the Labor Code is amended to read:

3075. Local or state joint apprenticeship committees may be selected by the employer and the employee organizations, in any trade in the state or in a city or trade area, whenever the apprentice training needs of such trade justifies such establishment. Such joint apprenticeship committees shall be composed of an equal number of employer and employee representatives. All selection and disciplinary proceedings for apprentices or prospective apprentices shall be duly noticed to such individuals. The Division of Apprenticeship Standards shall audit all such proceedings.

SEC. 7. Section 3075.1 is added to the Labor Code, to read:

3075.1. It is the public policy of this state to encourage the utilization of apprenticeship as a form of on-the-job training, when such training is cost-effective in developing skills needed to perform public services. State and local public agencies shall make a diligent effort to establish apprenticeship programs for apprenticeable occupations in their respective work forces. In furtherance of this policy, public agencies shall take into consideration (a) the extent to which a continuous supply of trained personnel is readily available to public agencies to meet their skill requirements in the various occupations which are determined to be apprenticeable, and (b) the application of established programs in the private sector, where appropriate. Public sector apprenticeship programs should be fully compatible with affirmative action goals for the participation of minorities and women in apprenticeship programs.

SEC. 8. Section 3076 of the Labor Code is amended to read:

3076. The function of the joint apprenticeship committee shall be to work in an advisory capacity with employers and employees in matters regarding schedule of operations, application of wage rates, working conditions for apprentices, the number of apprentices which shall be employed in the trade under apprentice agreements under this chapter, in accordance with labor standards set up by the California Apprenticeship Council except as specific written authority is delegated to the joint apprenticeship committee by the parent bodies they represent; and to aid in the adjustment of apprenticeship disputes as they affect labor standards. The joint apprenticeship committee shall establish selection procedures which specify minimum requirements for formal education or equivalency, physical examination, if any, subject matter of written tests and oral interviews, and any other criteria pertinent to the selection process; shall specify the relative weights of all factors which determine

selection to an apprenticeship program; shall submit in writing to the Administrator of Apprenticeship an official statement of each selection procedure including filing date and location of the joint apprenticeship committee; shall provide a copy of the selection procedures to each applicant; shall provide in writing to each applicant not selected an official explanation setting forth the reason or reasons for the nonselection, copies of which explanation shall be retained as a public record in the files of the joint apprenticeship committee for a period of three years; and shall implement affirmative action programs for minorities and women in accordance with the rules, regulations, and guidelines of the California Apprenticeship Council.

SEC. 9. Section 3077.5 of the Labor Code is amended to read:

3077.5. No association of employers, organization of employees, or joint committee administering an apprenticeship training program under this chapter shall provide a maximum age for apprentices.

The provisions of this section shall not apply to any apprenticeship program established pursuant to any collective-bargaining contract or agreement entered into prior to the operative date of this section.

SEC. 10. Section 3096 of the Labor Code is amended to read:

3096. Complaints alleging discrimination against any person in the selection or training of that person in any apprenticeship training program because of the race, religious creed, color, national origin, ancestry, or sex of such person shall be filed with the State Fair Employment Practice Commission pursuant to Part 4.5 (commencing with Section 1410) of Division 2 of this code. Whenever such a complaint is filed with the commission, the commission shall immediately send a copy of the complaint to the Administrator of Apprenticeship for investigation and action by the Division of Apprenticeship Standards pursuant to this chapter and rules and procedures prescribed by the California Apprenticeship Council. The division shall hold at least one open hearing relative to the complaint during the 21-day period following the day upon which the division receives a written copy of the complaint. If the commission finds that the complaint is not being processed in accordance with this chapter and such rules and procedures, or if the commission finds that the division has not taken action which has resolved the complaint within 30 days, the commission shall report such findings in writing to the administrator, who upon verification may cause the division to take conclusive action prior to the 61st day following the day upon which a written copy of the complaint was filed with the division. Notwithstanding any other provision of this section, the administrator shall, upon request of, and after written report by, the commission, relieve the division of the case and assign it to the commission, on or before the 61st day following the day upon which a written copy of the complaint was filed with the division. Upon receipt of such assignment, the commission shall immediately proceed to act upon the complaint. The commission shall hold at

03676 28585 154

least one open hearing within 14 days following the day of assignment. The commission shall complete its investigations and any attempts to eliminate any unlawful practices discovered and shall issue an accusation thereon or advise the complainant that the evidence does not warrant further proceedings thereon, within 30 days after the complaint is assigned to the commission. The commission shall prepare such findings, determinations, and orders for issuance by the administrator, who shall notify the complainant and shall make available his findings within 10 days after review of such findings by the commission. Such findings, determinations and orders shall be subject to further legal processes as set forth in this chapter. In the event there is no action by the division or the commission within 101 days after the filing of a complaint with the commission, the person claiming to be aggrieved may bring a civil action under this part within one year after such 101st day.

The Division of Apprenticeship Standards shall inform the commission of the number and disposition of all complaints handled by the division pursuant to this section for inclusion in the commission's report to the Governor and the Legislature as required by this code.

SEC. 11. Section 1070 of the Education Code is amended to read:

1070. The governing board of any school district may provide in each school within the district an organized and functioning counseling program. Counseling shall include, but not be limited to, the following:

(a) Educational counseling, in which the pupil is assisted in planning and implementing his immediate and long-range educational program.

(b) Career counseling, in which the pupil is assisted in assessing his or her aptitudes, abilities, and interests in order to make realistic career decisions. Such career counseling shall include encouraging students, including women and minorities, to seek apprenticeship training.

(c) Personal counseling, in which the pupil is helped to develop his ability to function with social and personal responsibility.

(d) Evaluating and interpreting test data.

(e) Counseling and consultation with parents and staff members on learning problems and guidance programs for pupils.

For purposes of this section, a person performing counseling services to pupils shall be a school counselor possessing a valid credential with a specialization in pupil personnel services and assigned specific times to directly counsel pupils regarding their educational, vocational, and social adjustment.

A governing board of a school district which offers such counseling services, may contract with the governing boards of any other school districts, or private schools, or other public and private agencies or organizations, to render such counseling services. In so contracting, the governing board of a school district shall not contract at less than cost to a private school, or private agency or organization.

Nothing in this section shall be construed as prohibiting persons participating in an organized advisory program approved by the governing board of a school district, and supervised by a school district counselor, from advising pupils pursuant to the organized advisory program.

Notwithstanding any provisions of this section to the contrary, any person who is performing such counseling services pursuant to law authorizing the performance thereof in effect before the effective date of this section shall be authorized to continue to perform such services on and after the effective date of this section without compliance with the additional requirements imposed by this section.

SEC. 12. 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 new duties, obligations or responsibilities imposed on local government by this act.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the California Community Colleges and adult education programs may continue to offer classroom training to apprentices on an uninterrupted basis, it is necessary that this act take effect immediately.

SEC. 14. It is the intent of the Legislature, if this bill and Assembly Bill No. 2466 are both chaptered and become effective on or before January 1, 1977, both bills amend Section 1777.5 of the Labor Code, and this bill is chaptered after Assembly Bill No. 2466, that Section 1777.5 of the Labor Code, as amended by Section 1 of Assembly Bill No. 2466, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 1777.5 proposed by this bill. Therefore, if this bill and Assembly Bill No. 2466 are both chaptered and become effective on or before January 1, 1977, and Assembly Bill No. 2466 is chaptered before this bill and amends Section 1777.5, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

CHAPTER 1180

An act to add Section 19706 to the Government Code, relating to state employees.

[Approved by Governor September 19, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 19706 is added to the Government Code, to read:

19706. It is unlawful to require or permit any notation or entry to be made upon or in any state civil service application form for examination regarding the date of birth of an applicant, unless the class for which the examination is being given has established minimum or maximum age limitations as specified on the examination announcement. In any event, it is unlawful to require or permit any notation or entry to be made on a civil service application form for examination with regard to date of completion of high school and G.E.D. high school tests, and dates of completion of certificates of professional or vocational competence, licenses, or membership in professional associations. The state may use existing state civil service application forms for examination prior to printing new forms pursuant to this section, but such printing shall take place no later than June 1, 1977. Subsequent to a bona fide offer of employment of an applicant, the state may ask for information covered under this section in order to verify such information.

CHAPTER 1181

An act to amend Sections 26 and 880 of the Penal Code, relating to crimes.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 26 of the Penal Code is amended to read:

26. All persons are capable of committing crimes except those belonging to the following classes:

One—Children under the age of 14, in the absence of clear proof that at the time of committing the act charged against them, they knew its wrongfulness.

Two—Idiots.

Three—Lunatics and insane persons.

Four—Persons who committed the act or made the omission charged under an ignorance or mistake of fact, which disproves any criminal intent.

Five—Persons who committed the act charged without being conscious thereof.

Six—Persons who committed the act or made the omission charged through misfortune or by accident, when it appears that there was no evil design, intention, or culpable negligence.

Seven—Persons (unless the crime be punishable with death) who committed the act or made the omission charged under threats or menaces sufficient to show that they had reasonable cause to and did

03830 285150 167

believe their lives would be endangered if they refused.

SEC. 2. Section 880 of the Penal Code is amended to read:

880. Infants who are material witness against the defendant, may be required to procure sureties for their appearance, as provided in the last section.

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 1182

An act to amend Sections 985 and 2626.2 of the Unemployment Insurance Code, relating to unemployment compensation disability benefits.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 985 of the Unemployment Insurance Code is amended to read:

985. Section 984 shall not apply to that part of the remuneration which, after remuneration with respect to employment equal to eleven thousand four hundred dollars ($11,400) for calendar year 1977 and each subsequent calendar year has been paid to an individual by an employer, is paid to such individual by such employer.

SEC. 2. Section 2626.2 of the Unemployment Insurance Code is amended to read:

2626.2. Benefits relating to pregnancy shall be paid under this part only in accordance with the following:

(a) Disability benefits shall be paid upon a doctor's certification that the claimant is disabled because of an abnormal and involuntary complication of pregnancy, including but not limited to: puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

(b) Disability benefits shall be paid upon a doctor's certification that a condition possibly arising out of pregnancy would disable the claimant without regard to the pregnancy, including but not limited to: anemia, diabetes, embolism, heart disease, hypertension, phlebitis, phlebothrombosis, pyelonephritis, thrombophlebitis, vaginitis, varicose veins, and venous thrombosis.

(c) Disability benefits shall be paid, upon a doctor's certification that the claimant is disabled because of a normal pregnancy, for a period not to exceed three weeks immediately prior to the expected birth of a child, and for a period not to exceed three weeks immediately after the termination date of a normal pregnancy. A normal pregnancy presupposes the birth of a live infant without the abnormal complications specified in subdivision (a) of this section.

SEC. 3. The amendment of Section 2626.2 of the Unemployment Insurance Code made by this act shall become operative with respect to periods of disability commencing on or after the effective date of this act.

CHAPTER 1183

An act to amend Sections 68200, 68201, 68202, and 68203 of the Government Code, relating to courts.

[Approved by Governor September 22, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 68200 of the Government Code is amended to read:

68200. The annual salary of the Chief Justice of California is sixty-six thousand eight hundred sixty-nine dollars ($66,869).

SEC. 2. Section 68201 of the Government Code is amended to read:

68201. The annual salary of each of the following judges is the amount indicated opposite the name of the office:

(a) Associate Justice of the Supreme Court, sixty-two thousand nine hundred thirty-five dollars ($62,935).

(b) Presiding justice or associate justice of a court of appeal division, fifty-nine thousand two dollars ($59,002).

SEC. 3. Section 68202 of the Government Code is amended to read:

68202. The annual salary of each of the following judges is the amount indicated opposite the name of the office:

(a) Judge of the superior court, forty-nine thousand one hundred sixty-six dollars ($49,166).

(b) Judge of a municipal court, forty-five thousand two hundred thirty-five dollars ($45,235).

SEC. 4. Section 68203 of the Government Code is amended to read:

68203. On July 1, 1978, and on July 1 of each year thereafter the salary of each justice and judge named in Sections 68200 to 68202, inclusive, shall be increased by that amount which is produced by multiplying the then current salary of each justice or judge by the

percentage by which the figure representing the California consumer price index as compiled and reported by the California Department of Industrial Relations has increased in the previous calendar year, but not to exceed five percent (5%).

CHAPTER 1184

An act to amend Sections 1195.5 and 1197.5 of, and to add Section 1196.1 to, the Labor Code, relating to employment, and making an appropriation therefor.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1195.5 of the Labor Code is amended to read:

1195.5. The Division of Labor Standards Enforcement shall determine, upon request, whether the wages of employees, which exceed the minimum wages fixed by the commission, have been correctly computed and paid. For this purpose, the division may examine the books, reports, contracts, payrolls and other documents of the employer relative to the employment of employees. The division shall enforce the payment of any sums found, upon examination, to be due and unpaid to the employees.

SEC. 2. Section 1196.1 is added to the Labor Code, to read:

1196.1. Notwithstanding the provisions of Section 1196, any employee who has been discharged, threatened with discharge, or in any other manner discriminated against, because the employee has testified or is about to testify, or because the employer believes that the employee will testify, in any investigation or proceedings relative to the enforcement of this chapter, may commence a civil action, or an available administrative action, in which recovery may include, but shall not be limited to, reinstatement, payment of wages which would otherwise have been due, and damages.

SEC. 3. Section 1197.5 of the Labor Code is amended to read:

1197.5. (a) No employer shall pay any individual in the employer's employ at wage rates less than the rates paid to employees of the opposite sex in the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any bona fide factor other than sex.

(b) Any employer who violates subdivision (a) is liable to the employee affected in the amount of the wages, and interest thereon,

of which such employee is deprived by reason of such violation.

(c) The provisions of this section shall be administered and enforced by the Division of Labor Standards Enforcement. If the division finds that an employer has violated this section, it may supervise the payment of any sums found to be due and unpaid to employees under subdivision (a). Acceptance of payment of sum or sums made by an employer and approved by the division shall constitute a waiver on the part of the employee of the employee's cause of action under subdivision (g).

(d) Every employer shall maintain records of the wages and wage rates, job classifications, and other terms and conditions of employment of the persons employed by such employer. All such records shall be kept on file for a period of two years.

(e) Any employee may file a complaint with the division that the wages paid are less than the wages to which the employee is entitled under subdivision (a). The name of any employee who submits to the division a complaint regarding an alleged violation of subdivision (a) shall be kept confidential by the division until validity of the complaint is established by the division, or unless such confidentiality must be abridged by the division in order to investigate the complaint. The name of the complaining employee shall remain confidential if the complaint is withdrawn before such confidentiality is abridged by the division. The division shall take all proceedings necessary to enforce the payment of any sums found to be due and unpaid to such employees.

(f) The department or division may commence and prosecute, unless otherwise requested by the employee or affected group of employees, a civil action on behalf of the employee and on behalf of a similarly affected group of employees to recover unpaid wages under subdivision (a), and in addition to such wages shall be entitled to recover costs of suit. The consent of any employee to the bringing of any such action shall constitute a waiver on the part of the employee of the employee's cause of action under subdivision (g) unless such action is dismissed without prejudice by the department or the division, except that such employee may intervene in such suit or may initiate independent action if such suit has not been determined within 180 days from the date of the filing of the complaint.

(g) Any employee receiving less than the wage to which the employee is entitled under this section may recover in a civil action the balance of such wages, including interest thereon, together with the costs of the suit and reasonable attorney's fees, notwithstanding any agreement to work for a lesser wage.

(h) A civil action to recover wages under subdivision (a) may be commenced no later than two years after the cause of action occurs.

CHAPTER 1185

An act to amend Sections 800, 805, 2005, 2008, 2010, 2012, 2100.2, 2105, 2106, 2108, 2108.5, 2109, 2110, 2113, 2114, 2115, 2116, 2117, 2119, 2120, 2122.5, 2123.1, 2123.3, 2123.4, 2123.6, 2123.9, 2123.10, 2123.11, 2124, 2124.3, 2124.6, 2135, 2151, 2360, 2361, 2362, 2372, 2374, 2376.5, 2377.5, 2383, 2384, 2390, 2391, 2393, 2416, 2417, 2418, 2419, 2428.5, 2429, 2432, 2436, 2451, 2451.1, 2451.2, 2452.1, 2455.3, 2458, 2459, 2460, 2462, 2500, 2501, 2501.1, 2502, 2503, 2507, 2508, 2525, 2525.11, 2530.2, 2545, 2550, 2601, 2902, and 3302 of, to add Sections 2116.5, 2135.5, 2165.5, 2175, 2190.5, 2210.5, 2280.5, 2309, 2350.5, and 2550.1 to, and to repeal Sections 2001, 2102, 2104, 2111, 2112, 2451.3, and 2601.5 of, the Business and Professions Code, to amend Sections 1283.05 and 1295 of the Code of Civil Procedure, to amend Section 11501 of the Government Code, and to amend Sections 1363 and 1373 of the Health and Safety Code, relating to health.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Board of Medical Quality Assurance, the Board of Dental Examiners, the Board of Osteopathic Examiners, the Board of Chiropractic 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.

If a board, a committee, or a panel has failed to act upon a complaint within five years, or if a board or a division thereof has found 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 which are not public records under any other provision of law 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. 2. Section 805 of the Business and Professions Code is amended to read:

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 (commencing with Section 1200) of the Health and Safety Code, 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 licensed physician and surgeon, osteopath, podiatrist, or dentist 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.

SEC. 3. Section 2001 of the Business and Professions Code is repealed.

SEC. 6. Section 2005 of the Business and Professions Code is amended to read:

2005. The term "board" refers to the Board of Osteopathic Examiners of the State of California, where the Board of Osteopathic Examiners of the State of California exercises the functions granted to it by the Osteopathic Act.

SEC. 7. Section 2008 of the Business and Professions Code is amended to read:

2008. Corporations and other artificial legal entities have no professional rights, privileges or powers; provided, however, that the Division of Licensing may in its sole discretion, after such examination, investigation and documentary evidence as it may require, and under rules and regulations adopted by it, grant approval of the employment of physicians and surgeons on a salary basis by licensed charitable and eleemosynary institutions, foundations or clinics or by approved medical schools operating clinics therewith, if no charge for professional services rendered patients is made by any such institution, foundation, clinic or school.

SEC. 8. Section 2010 of the Business and Professions Code is amended to read:

2010. Whenever any requirement is provided for any certificate, it shall be satisfied in a manner satisfactory to the appropriate division of the board charged with the responsibility of administering such requirement.

SEC. 9. Section 2012 of the Business and Professions Code is amended to read:

2012. Whenever any requirement is provided for any certificate relating to a school or hospital, the school and hospital shall be ones approved by the Division of Licensing.

SEC. 10. Section 2100.2 of the Business and Professions Code is amended to read:

2100.2. Unless otherwise provided by law, the terms "board" or "Board of Medical Examiners" as used in this chapter shall mean the Board of Medical Quality Assurance.

SEC. 11. Section 2102 of the Business and Professions Code is repealed.

SEC. 12. Section 2104 of the Business and Professions Code is repealed.

SEC. 13. Section 2105 of the Business and Professions Code is amended to read:

2105. Each division of the board shall elect a president, a vice president and a secretary-treasurer from its membership.

SEC. 14. Section 2106 of the Business and Professions Code is amended to read:

2106. Each division of the board shall hold one regular meeting annually during the month of October in the City of Sacramento and at least two additional regular meetings annually, one of which shall be held in the City of Los Angeles and the other in the City of San

Francisco. Each division of the board may adjourn from time to time until its business is concluded. Special meetings of any division may be held at such time and place as the division may designate.

SEC. 15. Section 2108 of the Business and Professions Code is amended to read:

2108. The secretary-treasurer of each division of the board, upon an authorization from the president of the division or the chairman of a committee, may call meetings of any duly appointed committee of the division at a specified time and place. It is unnecessary to advertise such committee meetings.

SEC. 16. Section 2108.5 of the Business and Professions Code is amended to read:

2108.5. The Division of Licensing may create one or more committees to determine any or all of the following: (i) whether an applicant fulfills all the requirements for the certificate for which he is applying, (ii) where an examination (written or oral or both) is required, whether the applicant shall be admitted to the examination and the terms and conditions of his admittance and whether he fails or passes, (iii) whether a recommendation should be made to the members of the division that the certificate applied for be issued. The division may appoint, or authorize the president to appoint, the members of any of these committees from the members of the division.

The action and recommendations of any committee established under this section shall be submitted in writing to all the members of the division. The members of the division, acting individually, may approve or disapprove the action of any committee with respect to each applicant. The approval or disapproval of each member shall be in writing and shall be filed with the secretary-treasurer of the division. The recommendation of the committee authorized by the division to recommend the issuance of certificates and the individual written approval of at least five of the members of the division is necessary to authorize the issuance of a certificate. Upon receipt of the recommendation and approvals, the secretary-treasurer of the division may issue the certificate.

SEC. 17. Section 2109 of the Business and Professions Code is amended to read:

2109. The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles, San Francisco and San Diego and such records as may be necessary may be transferred temporarily to them. Legal proceedings against the board shall be instituted in any one of these four cities.

SEC. 18. Section 2110 of the Business and Professions Code is amended to read:

2110. Each division of the board shall keep an official record of all its proceedings, a part of which shall consist of a register of all applicants for certificates under this chapter, together with the action of the Division of Licensing upon each application.

SEC. 19. Section 2111 of the Business and Professions Code is repealed.

SEC. 20. Section 2112 of the Business and Professions Code is repealed.

SEC. 21. Section 2113 of the Business and Professions Code is amended to read:

2113. If the board publishes a directory pursuant to Section 112, it may require the persons licensed pursuant to the Medical Practice Act to furnish such information as it may deem necessary to enable it to compile the directory. Every person so designated shall report immediately each and every change of residence, giving both his old and new address.

SEC. 22. Section 2114 of the Business and Professions Code is amended to read:

2114. The directory shall be prima facie evidence of the right of the persons named in it to practice, unless such right has been revoked or suspended pursuant to the Medical Practice Act subsequent to the publication of such directory. The board shall mail a copy of the directory, and all new issues and copies of all supplements of it, to the last known address of each person listed in it.

SEC. 23. Section 2115 of the Business and Professions Code is amended to read:

2115. The Division of Licensing may appoint qualified persons to give the whole or any portion of any examination as provided in this chapter, who shall be designated as commissioners on examination. A commissioner on examination need not be a member of the board but shall be subject to the same rules and regulations and shall be entitled to the same fee as if he were a member of the board.

SEC. 24. 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 and administrative proceedings and his services shall be a charge against it.

SEC. 24.5. Section 2116.5 is added to the Business and Professions Code, to read:

2116.5. If a person, not a regular employee of the Division of Medical Quality, is hired by said division to provide expertise in the evaluation of conduct of a physician's and surgeon's certificate holder, and said person is named as a defendant in a civil action for defamation directly resulting from opinions rendered, statements made, or testimony given to said division or its representatives, the Division of Medical Quality shall provide for representation required

to defend said defendant in said civil action; provided, however, the Division of Medical Quality shall not be liable for any judgment rendered against said person. The Attorney General shall be employed by the Division of Medical Quality to defend any civil action referred to in this section and his services shall be a charge against the division.

SEC. 25. Section 2117 of the Business and Professions Code is amended to read:

2117. Each member of the board, its divisions, or its committees, shall receive a per diem and expenses as provided in Section 103, except that the amount of the per diem shall be fifty dollars ($50).

Each member shall receive one per diem for the review of each 30 examination papers or fraction thereof.

The secretary-treasurer shall be entitled to the same per diem compensation as the other members of the board and to traveling and other expenses necessary in the performance of his duties.

The secretary-treasurer shall not receive a salary for acting in such capacity.

SEC. 26. 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, five 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. 27. Section 2120 of the Business and Professions Code is amended to read:

2120. On or before the first day of January of each year, the board shall transmit to the Governor a full and true report of all proceedings of each division, together with a report of all its receipts and disbursements.

The board may publish its report separately and also as a part of the directory. The costs of publication shall be chargeable against the contingent fund of the board.

SEC. 28. Section 2122.5 of the Business and Professions Code is amended to read:

2122.5. Each member of the Division of Medical Quality or each member of a medical quality review committee may inspect a

licensed general or specialized hospital or require reports therefrom to determine if the hospital has adopted and is complying with the rules specified in Sections 2392.5 and 2392.6. This authority to inspect or require written reports may not be delegated by either a member of the division or by a member of a medical quality review committee to any person other than a licensed physician and surgeon.

Subject to the provisions of Section 2379, each member of the Division of Medical Quality or each member of a medical quality review committee may inspect medical staff and patient hospital medical records, but this authority may not be delegated by either a member of the division or by a member of a medical quality review committee to any person other than a licensed physician and surgeon.

SEC. 29. Section 2123.1 of the Business and Professions Code is amended to read:

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.

(d) "Department" means the Department of Consumer Affairs.

SEC. 30. Section 2123.3 of the Business and Professions Code 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. Three members shall constitute a quorum in order for a panel of a committee to conduct business. It shall require an affirmative vote of three members of 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. 30.5. Section 2123.4 of the Business and Professions Code is amended to read:

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, and one member shall be appointed from among not less than three nominations which are submitted to him by the Division of Medical Quality. 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.

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.

SEC. 31. Section 2123.6 of the Business and Professions Code is amended to read:

2123.6. Each member of a committee shall receive a per diem and expenses, as provided in Section 2117.

SEC. 31.5. Section 2123.9 of the Business and Professions Code is amended to read:

2123.9. Except as otherwise provided in this article, all hearings shall be conducted by the Division of Medical Quality, a committee, panel of a committee, or a hearing officer, sitting alone, 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, panel of a committee, or the Division of Medical Quality, the hearing officer who presided at the hearing shall be present during the committee's consideration of the case and, shall advise the committee, panel, or division on matters of law.

SEC. 32. Section 2123.10 of the Business and Professions Code is amended to read:

2123.10. (a) 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.

(b) The Division of Medical Quality shall review all decisions of committees and panels. The division shall comment on the appropriateness of such decisions and shall promulgate recommended uniform disciplinary measures for particular situations.

SEC. 33. Section 2123.11 of the Business and Professions Code is amended to read:

2123.11. Each medical quality review committee shall be staffed by sufficient medical consultants 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.

SEC. 34. Section 2124 of the Business and Professions Code 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 within 30 days. A hearing shall be held within 45 days after the last day upon which discovery can be completed.

(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 2123.9 to determine whether unprofessional conduct has occurred.

(g) 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.

(h) Seek injunctions or restraining orders pursuant to Section 2436.

(i) 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. 35. Section 2124.3 of the Business and Professions Code is amended to read:

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 Division of Licensing, as will enable them to competently perform such duties.

SEC. 36. Section 2124.6 of the Business and Professions Code is amended to read:

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, or as is required to carry out any function of the board or its divisions which is designated by this chapter.

SEC. 37. Section 2135 of the Business and Professions Code is amended to read:

2135. The Division of Licensing shall issue one form of certificate designated as a physician's and surgeon's certificate.

The physician's and surgeon's certificate may also be issued as a reciprocity certificate.

SEC. 38. Section 2135.5 is added to the Business and Professions Code, to read:

2135.5. All references in this article to the board or the Board of Medical Examiners shall mean the Division of Licensing.

SEC. 38.5. Section 2151 of the Business and Professions Code is amended to read:

2151. Five members of the committee shall be acupuncturists with 10 years' experience in acupuncture and not possessed of a physicians' and surgeons' certificate and two members of the committee shall be acupuncturists with two years' experience in acupuncture and possessing a physicians' and surgeons' certificate.

Each member of the committee shall receive a per diem and expenses as provided in Section 103.

SEC. 39. Section 2165.5 is added to the Business and Professions Code, to read:

2165.5. All references in this article to the board or the Board of Medical Examiners shall mean the Division of Licensing.

SEC. 40. Section 2175 is added to the Business and Professions Code, to read:

2175. All references in this article to the board or the Board of Medical Examiners shall mean the Division of Licensing.

SEC. 41. Section 2190.5 is added to the Business and Professions Code, to read:

2190.5. All references in this article to the board or the Board of Medical Examiners shall mean the Division of Licensing.

SEC. 42. Section 2210.5 is added to the Business and Professions Code, to read:

2210.5. All references in this article to the board or Board of Medical Examiners shall mean the Division of Licensing.

SEC. 43. Section 2280.5 is added to the Business and Professions Code, to read:

2280.5. All references in this article to the board or Board of Medical Examiners shall mean the Division of Licensing.

SEC. 44. Section 2309 is added to the Business and Professions Code, to read:

2309. All references in this article to the board or Board of Medical Examiners shall mean the Division of Licensing.

SEC. 45. Section 2350.5 is added to the Business and Professions Code, to read:

2350.5. All references in this article to the board or Board of Medical Examiners shall mean the Division of Allied Health Professions.

SEC. 46. Section 2360 of the Business and Professions Code is amended to read:

2360. Every certificate issued may be suspended or revoked. The Division of Licensing shall refuse a certificate to any applicant guilty of unprofessional conduct. The proceedings under this article 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 Division of Licensing and the Division of Medical Quality shall have all the powers granted therein.

SEC. 47. 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) Repeated similar negligent acts.

(d) Incompetence.

(e) Gross immorality.

(f) 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.

(g) Any action or conduct which would have warranted the denial of the certificate.

SEC. 48. Section 2362 of the Business and Professions Code is amended to read:

2362. The Division of Medical Quality 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. 49. Section 2372 of the Business and Professions Code is amended to read:

2372. The holder of a certificate whose default has been entered or who has been heard by the Division of Medical Quality, a committee, panel, or hearing officer thereof and found guilty may:

(a) Have his certificate revoked upon order of the Division of Medical Quality or 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 or upon recommendation of the committee, panel, or hearing officer thereof;

(c) Be placed on probation by the Division of Medical Quality, the committee, panel, or hearing officer thereof; or,

(d) Have such other action taken in relation to discipline as the Division of Medical Quality, the committee, panel, or hearing officer thereof may deem proper.

SEC. 50. Section 2374 of the Business and Professions Code is amended to read:

2374. The secretary-treasurer of the Division of Licensing shall enter each case of disciplinary action on his records and shall certify the fact of suspension or revocation under the seal of the division to the county clerk of the county in which the certificate of the person is recorded.

SEC. 51. Section 2376.5 of the Business and Professions Code is amended to read:

2376.5. A person, whose certificate has been revoked or suspended for more than one year, may petition the Division of Medical Quality to reinstate the certificate after a period of not less than one year has elapsed from the date of the revocation or suspension.

The petition shall state such facts as may be required by the Division of Medical Quality. The petition shall be accompanied by two or more verified recommendations from physicians and surgeons licensed by the Division of Licensing to which the petition is addressed and by two or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition shall be heard at the next regular meeting of the Division of Medical Quality, held not earlier than 30 days after the petition was filed. The hearing

may be continued from time to time as the Division of Medical Quality finds necessary. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he is on probation or parole.

In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Division of Medical Quality may investigate and consider all activities of the petitioner since the disciplinary action was taken against him, the offense for which he was disciplined, his activity during the time his certificate was in good standing, his general reputation for truth, professional ability and good character, and may require the petitioner to pass an oral or written examination, or both, at the option of the Division of Medical Quality. The affirmative vote of at least five of the members of the Division of Medical Quality is necessary to set aside a penalty and to restore a certificate with or without terms, conditions and restrictions. The affirmative vote of at least three of the members of the Board of Osteopathic Examiners is necessary to set aside a penalty and to restore a certificate with or without terms, conditions, and restrictions. The Division of Medical Quality may grant or deny, without a hearing or argument, any petition filed pursuant to this section, where the petitioner has been afforded a hearing upon any petition filed pursuant to this section within a period of two years immediately preceding the filing of such petition.

The secretary-treasurer of the Division of Medical Quality shall enter in his records of the case all actions of the division in setting aside a disciplinary penalty under this section and he shall certify notices to the proper county clerk. The county clerk shall make such changes on his records as may be necessary.

SEC. 52. Section 2377.5 of the Business and Professions Code is amended to read:

2377.5. The use, supervision, or employment by a physician of a graduate of an approved program as defined in Section 3501, without the approval of the Division of Allied Health Professions, constitutes unprofessional conduct within the meaning of this chapter.

SEC. 53. Section 2383 of the Business and Professions Code is amended to read:

2383. The conviction of either (1) a felony or (2) any offense, misdemeanor or felony, involving moral turpitude constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Division of Medical Quality may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if such conviction is of an offense involving moral turpitude. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense involving moral turpitude is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order the license

suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 54. Section 2384 of the Business and Professions Code is amended to read:

2384. The conviction of a charge of violating any federal statutes or rules or any statute or rule of this state, regulating narcotics, dangerous drugs or controlled substances, constitutes unprofessional conduct within the meaning of this chapter. The record of the conviction is conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 55. Section 2390 of the Business and Professions Code is amended to read:

2390. The use or prescribing for or administering to himself, of any of the controlled substances specified in Schedule I of Section 11054, or Schedule II of Section 11055, or any narcotic drug specified in Schedule III of Section 11056, of the Health and Safety Code; or the use of any of the dangerous drugs specified in Section 4211 of this code, or of alcoholic beverages to the extent, or in such a manner as to be dangerous or injurious to a person holding a certificate under this chapter, or to any other person or to the public, or to the extent that such use impairs the ability of such person so holding such certificate to conduct with safety to the public the practice authorized by such certificate or the conviction of more than one misdemeanor or any felony involving the use, consumption or self-administration of any of the substances referred to in this section or any combination thereof, constitutes unprofessional conduct within the meaning of this chapter; the record of the conviction is conclusive evidence of such unprofessional conduct; a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section; the Division of Medical Quality may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on

appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 56. Section 2391 of the Business and Professions Code is amended to read:

2391. Unless otherwise provided by this section, the prescribing, selling, furnishing, giving away or administering or offering to prescribe, sell, furnish, give away or administer any of the drugs or compounds mentioned in Section 2390 to a habitué or addict constitutes unprofessional conduct within the meaning of this chapter.

If the drugs or compounds are administered or applied by a licensed physician and surgeon of this state or by a registered nurse acting under his instructions and supervision, this section shall not apply to any of the following cases:

(a) Emergency treatment of a patient whose addiction is complicated by the presence of incurable disease, serious accident or injury, or the infirmities attendant upon age.

(b) Treatment of habitués or addicts in institutions approved by the Division of Licensing where the patient is kept under restraint and control, or in city or county jails or state prisons.

(c) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety Code.

SEC. 57. Section 2393 of the Business and Professions Code is amended to read:

2393. The use of any fictitious, false or assumed name, or any name other than his own, by the holder of any certificate, either alone or in conjunction with a partnership group, in any sign or advertisement in connection with his practice, or in any advertisement or announcement of his practice, or in any public announcement of his practice, except as hereinafter expressly permitted, constitutes unprofessional conduct within the meaning of this chapter. Holders of physicians' and surgeons' certificates and holders of certificates to practice podiatry issued under this chapter may practice, within the scope of their respective certificates, in partnerships or groups of physicians and surgeons or of podiatrists, respectively.

Any physician and surgeon or partnership or group of physicians and surgeons, or any podiatrist or partnership or group of podiatrists, engaging in practice under any name that would otherwise be a violation of this section may practice under such name if, and only if, such individual, partnership or group holds an outstanding unexpired, unsuspended, and unrevoked permit issued by the Division of Licensing under the provisions of this section.

The Division of Licensing shall issue written permits authorizing the holder to use a name specified in the permit in connection with

his or their practice if, and only if, that division finds to its satisfaction that:

(a) The applicant or applicants are either duly licensed physicians and surgeons or podiatrists, as the case may be;

(b) The place or establishment, or the portion thereof, in which the applicant or applicants practice, is owned or leased by the applicant or applicants, and the practice conducted at such place or establishment, or portion thereof, is wholly owned and entirely controlled by the applicant or applicants provided, however, that where the applicant is working for a community clinic, as defined in subdivision (a) of Section 1203 of the Health and Safety Code, which contracts with or employs individual licensed physicians and surgeons to render medical care, this subdivision shall not apply.

(c) The name under which the applicant or applicants propose to operate contains at least one of the following designations: "medical group," "medical clinic," "podiatrists' group," "podiatry group," "podiatrists' clinic," or "podiatry clinic"; provided, however, that where the applicant is working for a community clinic, as defined in subdivision (a) of Section 1203 of the Health and Safety Code, and is subject to the name limitations of Title 17, California Administrative Code, Section 161, this subdivision shall not apply. In no case shall the name under which the applicant or applicants propose to operate contain the name or names of any of the physicians working for or employed by the community clinic.

(d) All licensed persons practicing at the location designated in the application hold valid and outstanding licenses and that no charges of unprofessional conduct are pending against any person practicing at such location.

Permits issued under this section by the Division of Licensing shall expire and become invalid unless renewed at the times and in the manner provided in Article 15 for the renewal of certificates issued under this chapter. Permits issued under this section by the Board of Osteopathic Examiners shall expire on December 31st of each year, and may be renewed by the board on payment of the fee equal to the annual tax and registration fee payable by licentiates of the Board of Osteopathic Examiners.

Any permit issued under this section may be revoked or suspended at any time that the Division of Medical Quality finds that any one of the requirements for original issuance of a permit is no longer being fulfilled by the individual or group to whom the permit was issued. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

In the event charges of unprofessional conduct are filed against the holder of a permit issued under this section, or a partnership or a member of a group to whom a permit has been issued under this section, proceedings shall not be commenced for revocation or suspension of the permit until final determination of such charges of unprofessional conduct and unless such charges have resulted in revocation of license.

The amendments to this section enacted at the 1955 Regular Session of the Legislature shall not be applicable to establishments licensed under Chapter 1 of Division 2 of the Health and Safety Code.

SEC. 58. Section 2416 of the Business and Professions Code is amended to read:

2416. Whenever it appears to the Division of Medical Quality that a person holding a certificate under this chapter is mentally ill to the extent that it may affect his ability to conduct with safety to the public the practice authorized by such certificate, the division may order the certificate holder to be examined by one or more physicians specializing in psychiatry designated by the division. The report of such persons shall be made available to the certificate holder and may be received as direct evidence in a proceeding conducted pursuant to Section 2417.

SEC. 59. Section 2417 of the Business and Professions Code is amended to read:

2417. If a certificate holder becomes mentally ill to such an extent as to affect his ability to conduct with safety the practice authorized by such certificate the Division of Medical Quality may take action by any one of the following methods:

(a) Suspending judgment.

(b) Placing him upon probation.

(c) Suspending his right to practice for a period not exceeding one year.

(d) Revoking his certificate.

(e) Taking such other action in relation to the certificate as the board in its discretion deems proper.

The Division of Medical Quality shall not restore such certificate to good standing until it shall receive competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard to the public interest the person's right to practice may be safely reinstated.

Before reinstating such a person, the Division of Medical Quality may require the person to pass an oral or written examination, or both, to determine his present fitness to resume his practice.

SEC. 60. Section 2418 of the Business and Professions Code is amended to read:

2418. The Division of Medical Quality may proceed against a certificate holder under either Section 2416 or Section 2417.

SEC. 61. Section 2419 of the Business and Professions Code is amended to read:

2419. In setting aside action taken under Section 2416 or under Section 2417, the Division of Medical Quality may impose terms and conditions to be followed by the certificate holder after his certificate has been reinstated. The authority of the division to impose terms and conditions 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.

(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. If the division requires the certificate holder to submit to such an examination, the division 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. 62. Section 2428.5 of the Business and Professions Code is amended to read:

2428.5. Any person, holding a physician's and surgeon's certificate or certificate to practice podiatry under this chapter, who alters or modifies the medical record of any person, with fraudulent intent, is guilty of a misdemeanor.

Violation of this section shall constitute grounds for disciplinary action by the Division of Medical Quality, or the Division of Allied Health Professions, and in addition to any other disciplinary action the division may impose a civil penalty of five hundred dollars ($500).

SEC. 63. Section 2429 of the Business and Professions Code is amended to read:

2429. Any person is guilty of a misdemeanor who, individually or in a representative or any other capacity, practices or attempts to practice any system or treatment of the sick or afflicted under a false or assumed name or under any name other than that prescribed by the Division of Licensing on its certificate issued to such person authorizing him to administer such treatment. Persons holding certificates under this chapter, who practice in partnerships or groups, may use any partnership or group name permitted by Section 2393 of this chapter.

SEC. 64. Section 2432 of the Business and Professions Code is amended to read:

2432. Any person is guilty of a misdemeanor who, individually or in a representative or any other capacity, fails to furnish the Division of Licensing with the information required by this section within 10 days after a demand for it has been made by the secretary-treasurer, on behalf of the division.

This information shall consist of the name and address of all persons associated with or employed by him or by any company or association with which he is or has been connected at any time within 60 days prior to the demand, together with a sworn statement showing under and by what license or authority the person or persons, or the employee or employees is or are, or has or have been practicing medicine or surgery, or any other system of treatment of the sick or afflicted.

Any person upon whom the Division of Licensing makes a demand

for the information shall make an affidavit that there are no person or persons associated or employed by him, if this is the fact. The affidavit shall not be used as evidence against the person or employee in any proceedings under this section.

SEC. 65. 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, any division 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 (commencing with Section 525) 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 or any division thereof.

SEC. 66. Section 2451 of the Business and Professions Code is amended to read:

2451. Licenses issued before January 1, 1962, expire and become invalid at 12 p.m. on December 31, 1961, if not renewed. Licenses renewed on or after December 31, 1961, and before March 1, 1964, and licenses issued after December 31, 1961, and before March 1, 1964, expire and become invalid at 12 p.m. on February 29, 1964, if not renewed. Thereafter, all licenses expire and become invalid at 12 p.m. on the last day of February of each even-numbered year if not renewed.

To renew an unexpired license, the licensee shall, on or before each of the dates on which it would otherwise expire, apply for renewal on a form prescribed by the Division of Licensing or the Division of Allied Health Professions, and pay the prescribed renewal fee, if any.

SEC. 67. Section 2451.1 of the Business and Professions Code is amended to read:

2451.1. Every person to whom a license is issued after December 31, 1961, shall, as a condition precedent to its issuance, and in addition to any application, examination or other fee, pay the prescribed initial license fee, if any. The Division of Licensing or the Division of Allied Health Professions may, by regulation, provide for the waiver or refund of the initial license fee, however, where the license is issued less than 45 days before the date on which it will expire.

SEC. 68. Section 2451.2 of the Business and Professions Code is amended to read:

2451.2. Except as provided in Section 2452, a license which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the Division of Licensing or the Division of Allied Health Professions and payment of the renewal fee in effect on the last

preceding regular renewal date. If the license is not renewed within 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the prescribed delinquency fee, if any. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 2451 which next occurs after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

The provisions of this section govern the renewal, and the fees payable therefor, of licenses which expired under the law in effect before October 1, 1961, as well as licenses which expire on October 1, 1961, or thereafter. A license which was forfeited or suspended for failure to renew under the law in effect before October 1, 1961, shall be considered to have expired on the date that it became forfeited or suspended.

SEC. 69. Section 2451.3 of the Business and Professions Code is repealed.

SEC. 70. Section 2452.1 of the Business and Professions Code is amended to read:

2452.1. A person who fails to renew his license within five years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but such person may apply for and obtain a new license if:

(a) He is of good moral character,

(b) No fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension,

(c) He takes and passes the examination, if any, which would be required of him if he were then applying for the license for the first time, or otherwise establishes to the satisfaction of the Division of Licensing or examining committee, as the case may be, with authority to pass on the qualifications of applicants for such license that, with due regard for the public interest, he is qualified to practice or engage in the profession or activity in which he again seeks to be licensed, and

(d) He pays all of the fees that would be required of him if he were then applying for the license for the first time.

The licensing authority may, by regulation, provide for the waiver or refund of all or any part of the examination fee in those cases in which a license is issued without an examination pursuant to the provisions of this section.

This section shall not be construed to authorize the issuance of a license or certificate of drugless practitioner, or a license or certificate to practice midwifery, or to practice naturopathy.

SEC. 71. Section 2455.3 of the Business and Professions Code is amended to read:

2455.3. Upon filing application therefor, containing such information as the Division of Licensing may require, and the

payment of the certificate fee, that division may issue to any person licensed under this chapter a duplicate certificate for one previously issued or, where there has been a change in name, another certificate in lieu of one previously issued.

SEC. 72. 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 physician's and surgeon's 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 Division of Licensing or the Division of Allied Health Professions 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 Division of Licensing 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 (commencing with Section 2210) 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 Division of Licensing 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 Division of Licensing or the Division of Allied Health Professions 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 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

SEC. 73. Section 2459 of the Business and Professions Code is amended to read:

2459. The amount of fees payable in connection with permits issued under Section 2393 is as follows:

(a) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit will expire less than one year after its issuance, then the initial permit 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 permit is issued.

(b) The renewal fee shall be fixed by the Division of Licensing at not more than twenty dollars ($20) nor less than two dollars ($2).

(c) The delinquency fee is ten dollars ($10).

SEC. 74. Section 2460 of the Business and Professions Code is amended to read:

2460. The amount of fees prescribed in connection with certificates of dispensing optician is as follows:

(a) The application fee is fifty dollars ($50), thirty-five dollars ($35) of which may be refunded upon refusal or denial of a certificate.

(b) 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.

(c) The renewal fee shall be fixed by the Division of Allied Health Professions at not more than sixty dollars ($60), and not less than thirty dollars ($30).

(d) The delinquency fee is fifteen dollars ($15).

SEC. 75. Section 2462 of the Business and Professions Code is amended to read:

2462. The amount of fees provided in connection with licenses for the practice of physical therapy is as follows:

(a) The application fee shall be fixed by the Division of Allied Health Professions at not more than fifty dollars ($50). The application fee for an applicant under Section 2635.1 shall be fixed by the Division of Allied Health Professions at not more than one hundred dollars ($100).

(b) 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.

(c) The renewal fee shall be fixed by the Division of Allied Health Professions at not more than fifty dollars ($50).

(d) The delinquency fee is fifteen dollars ($15).

(e) The duplicate license fee is two dollars ($2).

(f) The endorsement fee is five dollars ($5).

SEC. 76. Section 2500 of the Business and Professions Code is amended to read:

2500. A medical corporation is a corporation which is registered with the Division of Licensing or the Division of Allied Health Professions with reference to corporations rendering professional services as physicians and surgeons or as podiatrists, and the Board of Osteopathic Examiners with reference to corporations rendering professional services as osteopathic physicians and surgeons, and has a currently effective certificate of registration from the Division of Licensing or the Division of Allied Health Professions pursuant to the Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, such medical corporation is entitled to practice medicine. With respect to a medical corporation, the governmental agency referred to in the Professional Corporation Act is the Division of Licensing or the Division of Allied Health Professions with reference to corporations rendering professional services as physicians and surgeons or as podiatrists, and the Board of Osteopathic Examiners with reference to corporations rendering professional services as osteopathic physicians and surgeons.

SEC. 77. Section 2501 of the Business and Professions Code is amended to read:

2501. An applicant for registration as a medical corporation shall supply to the Division of Licensing or the Division of Allied Health Professions all necessary and pertinent documents and information requested by those divisions concerning the applicant's plan of operation, including but not limited to a copy of its articles of incorporation, certified by the Secretary of State, a copy of its bylaws, certified by the secretary of the corporation, the name and address of the corporation, the names and addresses of its officers, directors, shareholders and employees who will render professional services, the address of each office, and any fictitious name or names which the corporation intends to use. The Division of Licensing or the Division of Allied Health Professions may provide forms of application. If those divisions find that the corporation is duly organized and existing pursuant to the General Corporation Law, that each officer (except an assistant secretary or an assistant treasurer), director, shareholder and each employee who will render professional services is a licensed person as defined in the Professional Corporation Act, and that from the application it appears that the affairs of the corporation will be conducted in compliance with law and the rules and regulations of those divisions, the Division of Licensing or the Division of Allied Health Professions shall upon payment of the registration fee in such amount as it may determine issue a certificate of registration. The application shall be signed and verified by an officer of the corporation.

SEC. 78. Section 2501.1 of the Business and Professions Code is

amended to read:

2501.1. Notwithstanding any other provision of this chapter, the Division of Licensing or the Division of Allied Health Professions may delegate to its executive secretary, or other official or employee of the division:

(a) Its authority under Section 2501 to review and approve applications for registration as medical corporations and to issue certificates of registration.

(b) Its authority to review and approve applications of medical corporations for permits under Section 2393 and to issue such permits.

SEC. 79. Section 2502 of the Business and Professions Code is amended to read:

2502. Within such time as the Division of Licensing or the Division of Allied Health Professions may by rule provide, the medical corporation shall report in writing to the division any change in directors, officers, employees performing professional services and share ownership, and amendments to its articles of incorporation and bylaws.

SEC. 80. Section 2503 of the Business and Professions Code is amended to read:

2503. Each medical corporation shall file with the Division of Licensing or the Division of Allied Health Professions annually and at such other times as the division may require a report containing such information pertaining to qualification and compliance with the statutes, rules and regulations referred to in Section 2008.5 of this code as the division may determine. The fee for filing such a report shall be fixed by the division. All reports shall be signed and verified by an officer of the corporation.

SEC. 81. Section 2507 of the Business and Professions Code is amended to read:

2507. A medical corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a certificate under Section 2135 or 2491 of this code. The Division of Licensing and the Division of Allied Health Professions shall have the same powers of suspension, revocation and discipline against a medical corporation as are now or hereafter authorized by Section 2360 of this code, or by any other similar statute against individual licensees, provided, however, that proceedings against a medical corporation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

Notwithstanding any other provision of law, the offering and operation by a medical corporation of a health care service plan registered pursuant to the provisions of Section 12537 of the

Government Code is hereby authorized. For such purpose a medical corporation may employ, or enter into contracts or other arrangements with, any person or persons authorized to practice any system of the healing arts as defined in Section 12530 of the Government Code, but no such employment, contract, or arrangement shall provide for the rendering, supervision, or control of professional services other than as authorized by law.

SEC. 82. Section 2508 of the Business and Professions Code is amended to read:

2508. The Division of Licensing and the Division of Allied Health Professions may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of a medical corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in the Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such rules and regulations may provide, and (b) that a medical corporation as a condition of obtaining a certificate pursuant to the Professional Corporation Act and this article shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 83. Section 2525 of the Business and Professions Code is amended to read:

2525. There is hereby created within the jurisdiction of the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California, a Podiatry Examining Committee, hereafter referred to as the examining committee. All references in this article to the board or the Board of Medical Examiners shall mean the Division of Allied Health Professions.

SEC. 84. Section 2525.11 of the Business and Professions Code is amended to read:

2525.11. Each member of the committee shall receive a per diem and expenses as provided in Section 2117.

SEC. 85. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) "Committee" means the Speech Pathology and Audiology Examining Committee.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California.

(c) "Person" means any individual, organization or corporate body except that only individuals can be licensed under this chapter.

(d) A "speech pathologist" is a person who practices speech pathology.

(e) "The practice of speech pathology" means the application of principles, methods, and procedures for measurement, testing,

identification, prediction, counseling, or instruction related to the development and disorders of speech, voice, or language for the purpose of identifying, preventing, managing, habilitating or rehabilitating, ameliorating, or modifying such disorders and conditions in individuals or groups of individuals.

(f) "Speech pathology aide" means any person meeting the minimum requirements established by the committee, who works directly under the supervision of a speech pathologist.

(g) An "audiologist" is one who practices audiology.

(h) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction and research related to hearing and disorders of hearing for the purpose of modifying communicative disorders involving speech, language, auditory behavior or other aberrant behavior related to hearing loss; and the planning, directing, conducting or participating in programs of identification, hearing conservation, habilitation, and rehabilitation, including hearing aid recommendation and evaluation procedures such as, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading.

(i) "Audiology aide" means any person, meeting the minimum requirements established by the committee, who works directly under the supervision of an audiologist.

SEC. 86. Section 2545 of the Business and Professions Code is amended to read:

2545. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the State Board of Optometry, the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California, the Board of Osteopathic Examiners of the State of California, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required in any action commenced by such boards or divisions, the Attorney General, or a district attorney.

SEC. 87. Section 2550 of the Business and Professions Code is amended to read:

2550. Individuals and firms filling prescriptions of physicians and surgeons licensed by the Division of Licensing of the Board of Medical Quality Assurance for prescription lenses and kindred products, and, as incidental to the filling of such prescriptions, doing any or all of the following acts, either singly or in combination with others, taking facial measurements, fitting and adjusting such lenses

03371 286160 297

and fitting and adjusting spectacle frames, shall be known as dispensing opticians and shall not engage in such business unless registered with the Division of Allied Health Professions of the Board of Medical Quality Assurance.

SEC. 88. Section 2550.1 is added to the Business and Professions Code, to read:

2550.1. All references in this chapter to the board or the Board of Medical Examiners shall mean the Division of Allied Health Professions of the Board of Medical Quality Assurance.

SEC. 89. Section 2601 of the Business and Professions Code is amended to read:

2601. "Board" as used in this chapter means the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California.

SEC. 89.5. Section 2601.5 of the Business and Professions Code is repealed.

SEC. 90. Section 2902 of the Business and Professions Code is amended to read:

2902. As used in this chapter, unless the context clearly requires otherwise and except as in this act expressly otherwise provided:

(a) "Licensed psychologist" means an individual to whom a license has been issued pursuant to the provisions of this chapter, and which license is in force and has not been suspended or revoked.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance. "Committee" means the Psychology Examining Committee.

(c) A person represents himself to be a psychologist when he holds himself out to the public by any title or description of services incorporating the words "psychology," "psychological," "psychologist," "psychometry," "psychometrics" or "psychometrist," "psychotherapy," "psychotherapist," "psychoanalysis," "psychoanalyst" or when he holds himself out to be trained, experienced or an expert in the field of psychology.

(d) "Accredited," as used herein with reference to academic institutions, means accredited under the provisions of paragraph (1) of subdivision (a) of Section 29007 of the Education Code.

(e) "Approved," as used herein with reference to academic institutions, means approved under the provisions of paragraph (2) of subdivision (a) of Section 29007 of the Education Code.

SEC. 91. Section 3302 of the Business and Professions Code is amended to read:

3302. "Board," as used in this chapter, means the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California.

SEC. 91.5. Section 1283.05 of the Code of Civil Procedure is amended to read:

1283.05. To the extent provided in Section 1283.1 depositions may be taken and discovery obtained in arbitration proceedings as follows:

(a) After the appointment of the arbitrator or arbitrators, the parties to the arbitration shall have the right to take depositions and to obtain discovery regarding the subject matter of the arbitration, and, to that end, to use and exercise all of the same rights, remedies, and procedures, and be subject to all of the same duties, liabilities, and obligations in the arbitration with respect to the subject matter thereof, as provided in Chapter 2 (commencing with Section 1985) of, and Article 3 (commencing with Section 2016) of Chapter 3 of, Title 3 of Part 4 of this code, as if the subject matter of the arbitration were pending in a civil action before a superior court of this state, subject to the limitations as to depositions set forth in subdivision (e) of this section.

(b) The arbitrator or arbitrators themselves shall have power, in addition to the power of determining the merits of the arbitration, to enforce the rights, remedies, procedures, duties, liabilities, and obligations of discovery by the imposition of the same terms, conditions, consequences, liabilities, sanctions, and penalties as can be or may be imposed in like circumstances in a civil action by a superior court of this state under the provisions of this code, except the power to order the arrest or imprisonment of a person.

(c) The arbitrator or arbitrators may consider, determine, and make such orders imposing such terms, conditions, consequences, liabilities, sanctions, and penalties, whenever necessary or appropriate at any time or stage in the course of the arbitration, and such orders shall be as conclusive, final, and enforceable as an arbitration award on the merits, if the making of any such order that is equivalent to an award or correction of an award is subject to the same conditions, if any, as are applicable to the making of an award or correction of an award.

(d) For the purpose of enforcing the duty to make discovery, to produce evidence or information, including books and records, and to produce persons to testify at a deposition or at a hearing, and to impose terms, conditions, consequences, liabilities, sanctions, and penalties upon a party for violation of any such duty, such party shall be deemed to include every affiliate of such party as defined in this section. For such purpose:

(1) The personnel of every such affiliate shall be deemed to be the officers, directors, managing agents, agents, and employees of such party to the same degree as each of them, respectively, bears such status to such affiliate; and

(2) The files, books, and records of every such affiliate shall be deemed to be in the possession and control of, and capable of production by, such party. As used in this section, "affiliate" of the party to the arbitration means and includes any party or person for whose immediate benefit the action or proceeding is prosecuted or defended, or an officer, director, superintendent, member, agent, employee, or managing agent of such party or person.

(e) Depositions for discovery shall not be taken unless leave to do so is first granted by the arbitrator or arbitrators.

SEC. 92. Section 1295 of the Code of Civil Procedure, as amended by Section 1.196 of Chapter 2 of the Statutes of 1975, 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) Subdivisions (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, or licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, which contains an arbitration agreement if the plan complies with paragraph (10) of subdivision (a) of Section 1363 of the Health and Safety Code, or otherwise has a procedure for notifying prospective subscribers of the fact that the plan has an arbitration provision, and the plan contracts conform to subdivision

(h) of Section 1373 of the Health and Safety Code.

(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. 92.5. Section 11501 of the Government Code is amended to read:

11501. (a) The procedure of any agency shall be conducted pursuant to the provisions of this chapter only as to those functions to which this chapter is made applicable by the statutes relating to the particular agency.

(b) The enumerated agencies referred to in Section 11500 are:

Board of Dental Examiners of California.

Board of Medical Quality Assurance of the State of California, each of its three divisions, and the Medical Quality Review Committees.

Board of Osteopathic Examiners of the State of California.

California Board of Nursing Education and Nurse Registration.

State Board of Optometry.

California State Board of Pharmacy.

State Department of Health.

Board of Examiners in Veterinary Medicine.

State Board of Accountancy.

California State Board of Architectural Examiners.

State Board of Barber Examiners.

State Board of Registration for Professional Engineers.

Registrar of Contractors.

State Board of Cosmetology.

State Board of Funeral Directors and Embalmers.

Structural Pest Control Board.

Department of Navigation and Ocean Development.

Director of Consumer Affairs.

Bureau of Collection and Investigative Services.

State Fire Marshal.

State Board of Registration for Geologists.

Director of Food and Agriculture.

Labor Commissioner.
Real Estate Commissioner.
Commissioner of Corporations.
Department of Benefit Payments.
Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun.
Board of Pilot Commissioners for Humboldt Bay and Bar.
Board of Pilot Commissioners for the Harbor of San Diego.
Fish and Game Commission.
State Board of Education.
Insurance Commissioner.
Savings and Loan Commissioner.
State Board of Dry Cleaners.
Board of Behavioral Science Examiners.
State Board of Chiropractic Examiners.
State Board of Guide Dogs for the Blind.
Department of Aeronautics.
Board of Administration, Public Employees' Retirement System.
Department of Motor Vehicles.
Bureau of Home Furnishings.
Cemetery Board.
Department of Conservation.
Department of Water Resources acting pursuant to Section 414 of the Water Code.
Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.
Certified Shorthand Reporters Board.
Bureau of Repair Services.
California State Board of Landscape Architects.
Department of Alcoholic Beverage Control.
California Horse Racing Board.
School districts under Section 13443 of the Education Code.
State Fair Employment Practice Commission.
Bureau of Employment Agencies.

SEC. 93. Section 1363 of the Health and Safety Code is amended to read:

1363. (a) The commissioner shall require for use by each plan disclosure forms or materials containing such information regarding the benefits, services, and terms of the plan contract as the commissioner may require, so as to afford the public, subscribers, and enrollees with a full and fair disclosure of the provisions of the plan in readily understood language and in a clearly organized manner. The commissioner may require that such materials be presented in a reasonably uniform manner so as to facilitate comparisons between plan contracts of the same or other types of plans. Nothing contained in this chapter shall preclude the commissioner from permitting such disclosure form to be included with the evidence of coverage or plan contract.

The disclosure form shall provide for at least the following

information, in concise and specific terms, relative to the plan, together with such additional information as may be required by the commissioner, in connection with the plan or plan contract:

(1) The principal benefits and coverage of the plan.

(2) The exceptions, reductions, and limitations that apply to such plan.

(3) The full premium cost of such plan.

(4) Any copayment, coinsurance, or deductible requirements that may be incurred by the member or the member's family in obtaining coverage under the plan.

(5) The terms under which the plan may be renewed by the plan member, including any reservation by the plan of any right to change premiums.

(6) A statement that the disclosure form is a summary only, and that the plan contract itself should be consulted to determine governing contractual provisions.

(7) A statement as to when benefits shall cease in the event of nonpayment of the prepaid or periodic charge and the effect of nonpayment upon an enrollee who is hospitalized or undergoing treatment for an ongoing condition.

(8) To the extent that the plan permits a free choice of provider to its subscribers and enrollees, the statement shall disclose the nature and extent of choice permitted and the financial liability which is, or may be, incurred by the subscriber, enrollee, or a third party by reason of the exercise of such choice.

(9) A summary of the provisions required by subdivision (g) of Section 1373, if applicable.

(10) If the plan utilizes arbitration to settle disputes, a statement of that fact.

(b) All plans, solicitors, and representatives of a plan shall, when presenting any plan contract for examination or sale to an individual prospective plan member, provide such individual with a properly completed disclosure form, as prescribed by the commissioner pursuant to this section for each plan so examined or sold.

(c) In the case of group contracts, the completed disclosure form shall be presented to the contract holder upon delivery of the completed health care service plan agreement.

(d) Group contract holders shall disseminate copies of the completed disclosure form to all persons eligible under the group contract at the time such persons are offered the plan. Where the individual group members are offered a choice of plans, separate disclosure forms shall be supplied for each plan available.

SEC. 94. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where such other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an exception for such Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has entitlement to such Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon such employee and provides for an extension of such coverage for any period following a termination of employment of the employee shall also provide that such extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective-bargaining agreement.

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(h) A health care service plan may provide for coverage of, or for payment for, professional mental health services, or for the exclusion of such services. No plan shall prohibit the member from selecting any psychologist who is the holder of a certificate issued under Section 2948 of the Business and Professions Code or, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, a licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code to perform the particular services covered under the terms of the plan, such certificate holder being expressly authorized by law to perform such services. Nothing in this section shall be construed to allow a member to select and obtain mental health services from a certificate or license holder who is not directly affiliated with or under contract to the health care service plan to which the member belongs.

(i) If the plan utilizes arbitration to settle disputes, the plan contracts shall set forth the type of disputes subject to arbitration, the process to be utilized, and how it is to be initiated.

CHAPTER 1186

An act to amend Sections 3910, 3911, 3912, 3914, 3920, 3924, 3930, and 3940 of, and to repeal Section 3913 of, the Business and Professions Code, relating to nursing home administrators.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 3910 of the Business and Professions Code, as amended by Section 1 of Chapter 1137 of the Statutes of 1970, is amended to read:

3910. There is hereby created in the Department of Consumer Affairs a State Board of Examiners of Nursing Home Administrators which shall consist of nine members, appointed by the Governor, all of whom shall be citizens of the United States and residents of this state.

SEC. 2. Section 3910 of the Business and Professions Code, as amended by Section 4 of Chapter 1137 of the Statutes of 1970, is amended to read:

3910. There is in the Department of Health a State Board of Examiners of Nursing Home Administrators. Such board shall consist of nine members, appointed by the Governor, all of whom shall be citizens of the United States and residents of this state.

SEC. 3. Section 3911 of the Business and Professions Code is amended to read:

3911. Four members of the board, at the time of their appointment, shall be actively engaged in the administration of nursing homes as defined in Section 3902 of this chapter, two of whom shall be actively engaged in proprietary nursing homes, and two of whom shall be actively engaged in nonprofit, charitable private nursing homes.

SEC. 4. Section 3912 of the Business and Professions Code is amended to read:

3912. Five members of the board shall represent the general public. No person shall be appointed or continue to serve as a public member if he, or his spouse, children, parents, brothers, or sisters are engaged in the management, ownership, operation, or supervision of any nursing home or hospital, or have a legal or financial interest in any nursing home or hospital. One of the public members shall be actively engaged in the practice of medicine, with a demonstrated interest in convalescent and chronic care, and one shall be actively engaged as an educator in health care administration.

SEC. 5. Section 3913 of the Business and Professions Code is repealed.

SEC. 6. Section 3914 of the Business and Professions Code is amended to read:

3914. Three members of the first board shall be appointed initially for a term expiring July 15, 1974, three members shall be appointed for a term expiring July 15, 1973, and three members shall be appointed for a term expiring July 15, 1972. Thereafter the terms of all members shall be three years. Members of the board may be removed by the Governor for cause.

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 membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

The Governor shall appoint the additional public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licensee of the board.

SEC. 7. Section 3920 of the Business and Professions Code is amended to read:

3920. In order to apply for a license, a person shall make application to the board on a form approved by the board, pay the application fee established by the board, be at least 18 years of age, and have successfully completed an approved general education course of study as determined by the board or have comparable background and experience or a comparable combination of general education, background and experience, as determined by the board.

SEC. 8. Section 3924 of the Business and Professions Code is amended to read:

3924. (a) Every holder of a nursing home administrator's license shall reregister biennially, on dates specified by the board, by making application for reregistration. In the event that the license of an individual is not reregistered within three years from the date of expiration, it shall lapse and such individual shall again apply for licensing and meet all requirements of this chapter as for a new applicant.

(b) A condition of reregistration shall be the presentation of proof by the licensee that he has attended the number of classroom hours of approved continuing educational programs, classes, seminars, or proceedings as set by the board. The board, in its discretion, may except from continuing education requirements, the licensees who for reasons of health, military service, or other good cause cannot meet such requirements. Each such waiver granted shall be for the current reregistration period only.

(c) A licensee may reregister pursuant to this chapter, although he may not currently be actively engaged in nursing home administration.

SEC. 9. Section 3930 of the Business and Professions Code is amended to read:

3930. The board may deny, or may suspend or revoke, a license upon any of the following grounds:

(a) Gross negligence.

(b) Incompetence.

(c) The conviction of any crime involving dishonesty, or which is substantially related to the qualifications, functions, or duties of a nursing home administrator. A conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(d) Using fraud or deception in applying for a license or in taking the examination provided for in this chapter.

(e) Treating or attempting to treat any physical or mental condition without being currently licensed to do so.

(f) Violating Section 650 of the Business and Professions Code, any provision of this chapter or any rule or regulation of the board adopted pursuant to this chapter.

(g) Lack of any qualification requirement for the license.

SEC. 10. Section 3940 of the Business and Professions Code is amended to read:

3940. The amount of the fees prescribed by this chapter is that

fixed by the following schedule:

(a) The application fee for a nursing home administrator's license is not less than twenty-five dollars ($25) nor more than fifty dollars ($50).

(b) The initial fee for a license is not less than fifty-five dollars ($55) nor more than one hundred dollars ($100).

(c) The renewal fee is not less than fifty-five dollars ($55) nor more than one hundred dollars ($100).

(d) The delinquency fee is twenty-five dollars ($25).

(e) The reexamination fee is not less than ten dollars ($10) nor more than thirty dollars ($30).

(f) The administrator-in-training permit fee is not less than twenty-five dollars ($25) nor more than seventy-five dollars ($75).

(g) The duplicate license fee is not less than two dollars ($2) nor more than ten dollars ($10).

The board shall fix the fees, within the limits of the amounts prescribed in subdivisions (a), (b), (c), (e), (f), and (g) in such amounts as it determines are reasonably necessary to provide sufficient funds to carry out the purpose of this chapter.

CHAPTER 1187

An act to amend Sections 2450, 2601, 2604, 2632, 2635, 2635.1, 2637, 2650, 2655, 2655.3, 2655.5, 2660, 2660.5, 2661, and 2690 of, to amend and renumber Sections 2462, 2640, 2640.5, and 2641 of, to add Section 2687 to, and to repeal Sections 2610 and 2655.10 of, the Business and Professions Code, relating to physical therapy, and making an appropriation therefor.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 2450 of the Business and Professions Code is amended to read:

2450. The provisions of this article apply to, determine the expiration, and govern the renewal of each of the following certificates, licenses, and permits issued or endorsed by the Board of Medical Quality Assurance, including reciprocity licenses, certificates, and permits: physicians and surgeons certificates, certificates to practice podiatry, certificates to practice midwifery, certificates of naturopaths, certificates of drugless practitioners, certificates of dispensing opticians, licenses as a registered physical therapist, approvals as a physical therapist assistant, approvals as a physical therapist assistant supervisor, certificates as a psychologist, and permits to use a fictitious name issued under Section 2393.

As used in this article, "license" includes, "certificate" and

"permit," and "licensee" includes a holder of a certificate or permit.

SEC. 2. Section 2462 of the Business and Professions Code is amended and renumbered to read:

2688. The amount of fees provided in connection with licenses for the practice of physical therapy is as follows:

(a) The application fee shall be fixed by the board at not more than fifty dollars ($50). The application fee for an applicant under Section 2635.1 shall be fixed by the board at not more than one hundred dollars ($100).

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

(c) The renewal fee shall be fixed by the board at not more than fifty dollars ($50).

(d) A fee to be set by the examining committee of not more than fifty dollars ($50) shall be charged for each application for approval as a physical therapist assistant and such approval which may be granted.

(e) A fee to be set by the examining committee of not more than fifty dollars ($50) shall be charged for renewal of each such approval as a physical therapist assistant.

(f) A fee to be set by the examining committee of not more than fifty dollars ($50) shall be charged for each application for approval to supervise a physical therapist assistant or physical therapist assistants and for any such approval which may be granted.

(g) The examining committee shall renew approval to supervise a physical therapist assistant or physical therapist assistants upon application for such renewal, provided the physical therapist submits evidence that his practice or the physical therapists submit evidence that their practice and the way in which the physical therapist assistant or assistants are being utilized would have led to approval as an initial application under Section 2655.1. A fee to be set by the examining committee of not more than fifty dollars ($50) shall be paid for such renewal.

(h) The delinquency fee is fifteen dollars ($15).

(i) The duplicate license fee is two dollars ($2).

(j) The endorsement fee is five dollars ($5).

SEC. 3. Section 2601 of the Business and Professions Code is amended to read:

2601. "Board" as used in this chapter means the Board of Medical Quality Assurance of the State of California.

SEC. 4. Section 2604 of the Business and Professions Code is amended to read:

2604. The members of the examining committee shall be appointed by the Governor. The person appointed to succeed one of the physical therapist members whose term expires January 15, 1973, shall be appointed for a term expiring on June 15, 1975, and the other physical therapist appointed shall be appointed for a term expiring on June 15, 1976. Thereafter appointments shall be for a term of four years, expiring on the first day of June of each year.

Not more than one member of the examining committee shall be appointed from the full-time faculty of any university, college, or other educational institution.

No person may serve as a member of the examining committee for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term. Annually the examining committee shall elect one of its members as chairman.

The Governor shall have the power to remove any member of the examining committee from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

SEC. 5. Section 2610 of the Business and Professions Code is repealed.

SEC. 6. Section 2632 of the Business and Professions Code is amended to read:

2632. All licenses for the practice of physical therapy in this state shall be issued by the board, upon the recommendation and direction of the examining committee, and all applications for such licenses shall be filed with the committee. Excepting as otherwise required by the director pursuant to Section 164, the license issued by the board shall describe the licensee as a "registered physical therapist licensed by the Board of Medical Quality Assurance."

Each application shall be accompanied by the application fee prescribed by Section 2688, shall be signed by the applicant, and shall contain a statement under oath of the facts entitling the applicant to receive a license without examination or to take an examination.

SEC. 7. Section 2635 of the Business and Professions Code is amended to read:

2635. Every applicant for a license under this chapter shall, at the time of application, be a person over 18 years of age, not addicted to the intemperate use of alcohol or any narcotic drug, and have successfully completed courses of training equivalent to the minimum standard established in this chapter for approval by the examining committee.

SEC. 8. Section 2635.1 of the Business and Professions Code is amended to read:

2635.1. (a) An applicant whose application is based on a diploma issued to him by a foreign physical therapy school shall furnish documentary evidence, satisfactory to the examining committee, that he has completed in a physical therapy school or schools a resident course of professional instruction equivalent to that required in Section 2650 for a physical therapist applicant.

(b) Applicants under this section shall satisfactorily complete a

period of service not to exceed nine months under the continuous direction and immediate supervision of a registered physical therapist licensed by the Board of Medical Quality Assurance in a physical therapy service and in an institution both of which have been approved by the committee for providing such a period of service. The committee may waive all or any portion of the required period of service. The committee shall adopt regulations for granting such waiver.

(c) Before a license may be issued, the applicant must not only meet the requirements of subdivisions (a) and (b) but must pass the written examination as provided under Section 2636 prior to commencing the period of service, and may be required to pass an oral examination at the completion of the period of service if such period of service has not been completed to the satisfaction of the supervising registered physical therapist. The requirements to pass the written examination shall not apply to an applicant who at the time of his application has passed, to the satisfaction of the examining committee, an examination for licensing or registration in another state, district or territory of the United States that is, in the opinion of the examining committee, comparable to the examination given in this state.

(d) Nothing contained in this section shall prohibit the examining committee from disapproving any foreign physical therapy school nor from denying the applicant if, in the opinion of the examining committee, the instruction received by the applicant or the courses were not equivalent to that required in this chapter for a physical therapist applicant.

SEC. 9. Section 2637 of the Business and Professions Code is amended to read:

2637. Every applicant who is otherwise qualified as provided in this chapter and who receives an average grade of 75 percent or a statistical formula the equivalent thereof shall be granted a license.

SEC. 10. Section 2640 of the Business and Professions Code is amended and renumbered to read:

2683. The provisions of Article 15 (commencing with Section 2450) of Chapter 5 of this division apply to the issuance and govern the expiration and renewal of licenses issued under this chapter.

SEC. 11. Section 2640.5 of the Business and Professions Code is amended and renumbered to read:

2684. A person who is subject to Section 40 of Chapter 1284 of the 1968 statutes who did not, on or before January 1, 1970, return his certificate or license pursuant to such section shall be subject to Sections 2452.1 and 2683.

SEC. 12. Section 2641 of the Business and Professions Code is amended and renumbered to read:

2685. On or before the first day of each even-numbered year, the examining committee shall mail to each licensee under this chapter, at the latest address furnished by such licensee to such secretary, a notice stating the amount of the renewal fee and the date on which

it is due, and that failure to pay it on or before the due date will result in expiration of the license.

SEC. 13. Section 2650 of the Business and Professions Code is amended to read:

2650. Except as otherwise provided in this chapter, all applicants for licenses under this chapter, shall have a high school diploma or equivalent education and shall have one of the following qualifications:

(a) Graduation from a school of nursing approved by the Board of Registered Nursing of the State of California;

(b) Graduation from a school of physical education;

(c) Two years of college training in an accredited school or accredited schools including courses in biological and physical sciences; and in addition all applicants shall have successfully completed, professional education in physical therapy consisting of courses of instruction, in schools approved by the examining committee, equivalent to the following minimum standards:

A course of not less than 1,200 hours (reasonably distributed), in residence, providing that the minimum length of full-time training shall be 12 months, and including the following subjects taught by instructors having the following qualifications:

Subject	Qualification of instructors
(a) Applied sciences	Physician and surgeon or other instructor qualified in specialty
Anatomy	
Pathology	
Physiology.....	
Psychology	
Physics, correlated with other subjects	
(b) Procedures	Physical therapist
Electrotherapy	
Radiation therapy (not including X-ray or radium therapy)	
Hydrotherapy	
Massage.....	
Therapeutic exercise	

(c) Physical therapy as applied to Medicine ..... Neurology ..... Orthopedics ..... Surgery ..... Psychiatry	For theory, physician and surgeon or other instructor qualified in specialty For practice, physical therapist
(d) Ethics and administration	Physical therapist
(e) Electives	Physical therapist
(f) Clinical practice.....	A physician and surgeon and a physical therapist

SEC. 14. Section 2655 of the Business and Professions Code is amended to read:

2655. As used in this article:

(a) "Physical therapist" means a registered physical therapist licensed by the Board of Medical Quality Assurance.

(b) "Physical therapist assistant" means a person who meets the qualifications stated in Section 2655.3 and who is approved by the examining committee to assist in the provision of physical therapy under the supervision of a physical therapist or physical therapists approved by the examining committee to supervise such physical therapist assistant or physical therapist assistants.

(c) "Physical therapist assistant" and "physical therapy assistant" shall be deemed identical and interchangeable.

SEC. 15. Section 2655.3 of the Business and Professions Code is amended to read:

2655.3. A person seeking approval as a physical therapist assistant shall make application to the examining committee for such approval. Every person applying for approval as a physical therapist assistant shall have all of the following qualifications:

(a) Have graduated from a school for physical therapist assistants approved by the examining committee or have training or experience or a combination of training and experience which in the opinion of the examining committee is equivalent to that obtained in an approved school.

(b) Successfully pass the examination given under this article.

(c) Not be addicted to the intemperate use of alcohol or any narcotic drug.

SEC. 16. Section 2655.5 of the Business and Professions Code is amended to read:

2655.5. Every applicant for approval as a physical therapist assistant who is otherwise qualified as provided in this article and who receives an average grade of 75 percent or a statistical formula the equivalent thereof shall be approved as a physical therapist assistant.

SEC. 17. Section 2655.10 of the Business and Professions Code is repealed.

SEC. 18. Section 2660 of the Business and Professions Code is amended to read:

2660. The board may, after the conduct of appropriate proceedings by the examining committee under the Administrative Procedure Act, suspend for not more than 12 months or revoke any license issued under this chapter for any of the following causes:

(a) Advertising in violation of Section 17500 of the Business and Professions Code.

(b) Fraud in the procurement of any license under this chapter.

(c) Procuring or aiding or offering to procure or aid in criminal abortion.

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(f) Habitual intemperance.

(g) Addiction to the excessive use of any habit-forming drug.

(h) Gross negligence in his practice as a physical therapist.

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

(j) Clearly excessive administering of treatment or use of treatment or use of treatment facilities to the detriment of the patient as determined by the customary practice and standards of the local community of licensees.

(k) The aiding or abetting of any person to violate the provisions of this chapter or any regulations duly adopted under this chapter.

(*l*) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.

SEC. 19. Section 2660.5 of the Business and Professions Code is amended to read:

2660.5. The use, supervision, or employment by a registered physical therapist licensed by the Board of Medical Quality Assurance of a physical therapist assistant as defined in Section 2655, without the approval of the examining committee, constitutes grounds for disciplinary action within the meaning of Section 2660.

SEC. 20. Section 2661 of the Business and Professions Code is amended to read:

2661. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may, upon the recommendation and direction of the examining committee, order the license

suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 22. Section 2687 is added to the Business and Professions Code, to read:

2687. All fees earned by the committee 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 Physical Therapy Fund.

This fund shall be for the uses of the committee and is continuously appropriated to the committee to pay all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter.

SEC. 23. Section 2690 of the Business and Professions Code is amended to read:

2690. A physical therapy corporation is a corporation which is registered with the Board of Medical Quality Assurance with reference to corporations rendering professional services as physical therapists and has a currently effective certificate of registration from the board pursuant to the Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, such physical therapy corporation is entitled to practice physical therapy. With respect to a physical therapy corporation, the governmental agency referred to in the Professional Corporation Act is the Board of Medical Quality Assurance with reference to corporations rendering professional services as physical therapists. As used in this article, the "board" refers to the Board of Medical Quality Assurance.

CHAPTER 1188

An act to amend Sections 452, 1601, 1602, 1603, 2525.1, 2525.2, 2525.3, 2525.5, 2603, 2604, 2604.5, 2702, 2703, 2842, 2843, 2920, 2922, 2923, 3010, 3011, 3013, 4001, 4002, 4800, 4832, 5000, 5514, 5515, 5620, 5621, 6500, 6502, 6711, 6712, 6865.5, 6866, 7002, 7003, 7301, 7303, 7601, 7603, 7810, 7811, 7814, 8000, 8001.5, 8521, 8522, 9001, 9002, 9003, 9115, 9116, 9530, 9531, 9625, 9927, 9929, 19035.1, 19035.3, and 19035.35 of, to add Sections 450.4 and 450.6 to, and to repeal Section 9002.1 of, the Business and Professions Code, relating to licensing agencies in the

Department of Consumer Affairs.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 450.4 is added to the Business and Professions Code, to read:

450.4. Each board shall have, as one of its public members, a person who possesses expertise in one or more significant portions of the board's regulated activities.

SEC. 1.3. Section 450.6 is added to the Business and Professions Code, to read:

450.6. Notwithstanding any other section of law, a public member may be appointed without regard to age so long as the public member has reached the age of majority prior to appointment.

SEC. 1.5. Section 452 of the Business and Professions Code is amended to read:

452. "Board," as used in this chapter, includes a board, advisory board, commission, examining committee, committee or other similarly constituted body exercising powers under this code.

SEC. 1.7. Section 1601 of the Business and Professions Code, as amended by Chapter 716 of the 1971 Statutes, is amended to read:

1601. There is in the Department of Consumer Affairs a Board of Dental Examiners of California in which the administration of this chapter is vested. The board consists of five practicing dentists and three public members.

SEC. 2. Section 1601 of the Business and Professions Code, as amended by Chapter 1593 of the 1971 Statutes, is amended to read:

1601. There is in the State Department of Health a Board of Dental Examiners of California in which the administration of this chapter is vested. The board consists of five practicing dentists and three public members.

SEC. 3. Section 1602 of the Business and Professions Code is amended to read:

1602. All of the members of the board, except the public members, shall have been actively and legally engaged in the practice of dentistry in the State of California, for at least five years next preceding the date of their appointment. The public members shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600. No more than one member of the board shall be a member of the faculty of any dental college or dental department of any medical college in the State of California. None of the members, including the public members, shall have any financial interest in any such college.

SEC. 4. Section 1603 of the Business and Professions Code is amended to read:

1603. Members of the board shall be appointed by the Governor

for a term of four years, and each member shall hold office until the appointment and qualification of his successor or until six months shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The terms of the members of the board in office when this chapter takes effect shall expire as follows: two members, January 15, 1938; one member, January 15, 1939; two members, January 15, 1940; and two members, January 15, 1941. The terms shall expire in the same relative order as to each member as the term for which he holds office before this chapter takes effect.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on January 15, 1963.

The Governor shall appoint the public members as provided at the 1976 portion of the 1975–76 session of the Legislature as a vacancy occurs in the office of any of the members who are licensed under this division.

A vacancy occurring during a term shall be filled by appointment for the unexpired term, within 30 days after it occurs.

No person shall serve as a member of the board for more than two terms, but this provision shall not prevent any member from completing any term of office in which he may be serving at the time this limitation takes effect.

SEC. 5. Section 2525.1 of the Business and Professions Code is amended to read:

2525.1. The examining committee shall consist of six members appointed by the Governor, two of whom shall be public members. The Governor shall give consideration to recommendations of the Board of Medical Quality Assurance of the State of California, after the board has consulted with the Podiatry Examining Committee, except with regard to the public members.

SEC. 6. Section 2525.2 of the Business and Professions Code is amended to read:

2525.2. Members of the examining committee, except the public members, shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of this state for at least five years next preceding his appointment.

(b) Be a graduate of a recognized school of podiatry.

(c) Have a valid certificate to practice podiatry in this state.

(d) Have engaged in the practice of podiatry in this state for at least five years next preceding his appointment.

SEC. 7. Section 2525.3 of the Business and Professions Code is amended to read:

2525.3. The public members shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of this state for at least five years next preceding his appointment.

(b) Shall not be an officer or faculty member of any college, school

or institution engaged in podiatry instruction.

(c) Shall not be a licentiate of the committee or of any board under this division or of any board referred to in Sections 1000 and 3600.

SEC. 8. Section 2525.5 of the Business and Professions Code is amended to read:

2525.5. All members of the committee shall be appointed for terms of four years. Vacancies shall immediately be filled by the Governor for the unexpired portion of the terms in which they occur. In filling vacancies, except for a vacancy as to the public member, the Governor shall give consideration to recommendations of the Board of Medical Examiners, after the board has consulted with the Podiatry Examining Committee. No person shall serve as a member of the committee for more than two consecutive terms.

The Governor shall appoint the public member as provided at the 1976 portion of the 1975–76 session of the Legislature as a vacancy occurs in the office of any of the members who are licensed under this division.

SEC. 9. Section 2603 of the Business and Professions Code is amended to read:

2603. The members of the examining committee shall be the following: a physician and surgeon duly licensed by the board, but not a member of the board; three physical therapists who shall have practiced physical therapy for five years and shall be licensed by the board, and two public members who shall not be licentiates of the committee or of any board under this division or of any board referred to in Sections 1000 and 3600.

SEC. 10. Section 2604 of the Business and Professions Code is amended to read:

2604. The members of the examining committee shall be appointed by the Governor. The person appointed to succeed one of the physical therapist members whose term expires January 15, 1973, shall be appointed for a term expiring on June 15, 1975, and the other physical therapist appointed shall be appointed for a term expiring on June 15, 1976. Thereafter appointments shall be for a term of four years.

The Governor shall fill the new position created on the effective date of the 1968 amendment to Section 2603 by appointment of a physical therapist who was registered under Chapter 5.6 (commencing with Section 2600) of this division, repealed at the 1968 Regular Session of the Legislature, and who is at the time of his appointment licensed under this chapter. This term shall expire January 15, 1973.

The Governor shall appoint the public member as provided at the 1976 portion of the 1975–76 session of the Legislature as a vacancy, consistent with the requirements of licentiate representation, occurs in the office of any of the members who are licensed under this chapter.

Not more than one member of the examining committee shall be

appointed from the full-time faculty of any university, college, or other educational institution.

No person may serve as a member of the examining committee for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term. Annually the examining committee shall elect one of its members as chairman.

The Governor shall have the power to remove any member of the examining committee from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

SEC. 11. Section 2604.5 of the Business and Professions Code is amended to read:

2604.5. The public members shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of California.

(b) Shall not be an officer or faculty member of any college, school or institution engaged in physical therapy education.

(c) Shall not be a licentiate of the board or of any board under this division or of any board referred to in Sections 1000 and 3600.

The public member in office at the effective date of the amendment made to this section by the Legislature at the 1971 Regular Session shall continue in office until the expiration of his term.

SEC. 12. Section 2702 of the Business and Professions Code is amended to read:

2702. Each member of the board shall be a citizen of the United States and a resident of the State of California. Three members shall represent the public at large, and shall not be licensed under any board under this division or any board referred to in Section 1000 or 3600 and shall have no pecuniary interests in the provision of health care services. Three members shall be licensed registered nurses under the provisions of this chapter, each of whom shall be active in the practice of his profession engaged primarily in direct patient care with at least five continuous years of experience, and who shall not be engaged as an educator or administrator of a nursing education program under the provisions of this chapter. One member shall be a licensed registered nurse under the provisions of this chapter who shall be active as an educator or administrator in an approved program to train registered nurses. One member shall be a licensed registered nurse who is an administrator of a nursing service with at least five continuous years of experience. One member shall be a licensed physician active in the practice of his profession with at least five years of continuous experience.

SEC. 13. Section 2703 of the Business and Professions Code is amended to read:

2703. The Governor shall appoint the members of the board. The members in office on the effective date of the amendments made to this section at the 1973–74 Regular Session shall continue in office until the expiration of the terms they are then serving. The first vacancy in the offices of the nurse members whose terms expire June

1, 1975 shall be filled by the appointment of nurses engaged primarily in direct patient care for terms expiring June 1, 1979. The first vacancy in the office of the nurse member whose term expires June 1, 1976 shall be filled by the appointment of a nurse educator or administrator for a term expiring June 1, 1980. The first vacancy in the office of the public member whose term expires June 1, 1976 shall be filled by the appointment of a public member for a term expiring June 1, 1980. The first vacancy in the office of the nurse member whose term expires June 1, 1977 shall be filled by the appointment of a nurse educator or administrator for a term expiring June 1, 1981. The first vacancy in the office of the public member whose term expires June 1, 1977 shall be filled by the appointment of a public member for a term expiring June 1, 1981. The first vacancy in the office of the nurse member whose term expires June 1, 1978 shall be filled by the appointment of a nurse engaged primarily in direct patient care for a term expiring June 1, 1982. The nursing service administrator member first appointed shall be appointed for a term expiring June 1, 1977. The physician member first appointed shall be appointed for a term expiring June 1, 1978. Thereafter all appointments shall be for a term of four years and vacancies shall be filled for the unexpired term. No person shall serve more than two consecutive terms.

The Governor shall appoint the public member as provided at the 1976 portion of the 1975–76 session of the Legislature as a vacancy, consistent with the requirements of licentiate representation, occurs in the membership of the board.

SEC. 14. Section 2842 of the Business and Professions Code is amended to read:

2842. Each member of the board shall be a citizen of the United States and a resident of the State of California. Six members shall be duly licensed under the provisions of this division and five members shall be public members who are not licentiates of the board or any other board under this division or of any board referred to in Sections 1000 and 3600.

No person may serve as a member of the board for more than two consecutive terms.

Per diem and expenses of members of the board who are certified psychiatric technicians shall be paid solely from revenues received pursuant to the provisions of Chapter 10 (commencing with Section 4500) of Division 2.

SEC. 15. Section 2843 of the Business and Professions Code is amended to read:

2843. Members of the board shall be appointed by the Governor for a term of four years. The terms of the members of the board first appointed under this chapter shall expire as follows: the two practical nurses who are qualified to meet the requirements for a license under this chapter, on January 15, 1952; two on January 15, 1953; two on January 15, 1954; two on January 15, 1955. Vacancies occurring shall be filled by appointment for the unexpired term in the manner

hereinabove provided.

A vacancy is hereby created on the effective date of the 1957 amendment of this section in the term of the public health nurse, and the Governor shall within 90 days thereafter fill the vacancy so created and the two new positions by the appointment of three duly licensed vocational nurses who have been licensed for a period of three years prior to appointment. One of the nurses so appointed shall serve for the balance of the term of the public health nurse member; one for a term to expire on January 15, 1960; and one for a term to expire on January 15, 1961.

The Governor shall, on or before January 1, 1964, appoint the two certified psychiatric technicians to the board. Their terms shall expire January 15, 1967. Thereafter all appointments of certified psychiatric technicians shall be for a term of four years, and vacancies shall be filled by appointment for the unexpired term.

Notwithstanding this section or Section 130, the Governor shall appoint a psychiatric technician to fill a vacancy created by the expiration of the term of office of a psychiatric technician member occurring on January 15, 1971, to a term of office expiring on June 1, 1972. Thereafter appointments to such office shall be for a term of four years expiring on June 1st.

The Governor shall appoint the public members as provided at the 1976 portion of the 1975–76 session of the Legislature as a vacancy occurs in the membership of the board.

SEC. 16. Section 2920 of the Business and Professions Code is amended to read:

2920. The present Psychology Examining Committee of the Board of Medical Examiners of the Department of Consumer Affairs shall administer the provisions of this chapter. The committee shall consist of eight members appointed by the Governor, three of whom shall be public members.

SEC. 17. Section 2922 of the Business and Professions Code is amended to read:

2922. In appointing the members of the committee, except the public members, the Governor shall use his judgment to select psychologists who represent, as widely as possible, the varied professional interests of psychologists in California.

The Governor shall appoint the public members as provided at the 1976 portion of the 1975–76 session of the Legislature as a vacancy occurs in the office of any of the members who are licensed under this division.

SEC. 18. Section 2923 of the Business and Professions Code is amended to read:

2923. Each member of the committee shall have all of the following qualifications:

(a) He shall be a resident of this state.

(b) Each member appointed, except the public members shall be a licensed psychologist.

The public members shall not be licentiates of the committee or

of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.

SEC. 19. Section 3010 of the Business and Professions Code, as amended by Chapter 716 of the 1971 Statutes, is amended to read:

3010. There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of six members appointed by the Governor, two of whom shall be public members.

Four members of the board shall constitute a quorum.

SEC. 20. Section 3010 of the Business and Professions Code, as amended by Chapter 1593 of the 1971 Statutes, is amended to read:

3010. There is in the State Department of Health a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of six members appointed by the Governor, two of whom shall be public members.

Four members of the board shall constitute a quorum.

SEC. 21. Section 3011 of the Business and Professions Code is amended to read:

3011. Members of the board, except the public members, shall be appointed only from persons who are registered optometrists of the State of California and actually engaged in the practice of optometry at the time of appointment. The public members shall not be a licentiate of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.

No person, including the public members, shall be eligible to membership in the board who is a stockholder in or owner of or a member of the faculty of or of the board of trustees of any school of optometry or who shall be financially interested, directly or indirectly, in any concern manufacturing or dealing in optical supplies at wholesale.

No person, including the public members, shall serve as a member of the board for more than three consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

SEC. 22. Section 3013 of the Business and Professions Code is amended to read:

3013. Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his successor or until six months shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The terms of the members of the board in office when this chapter takes effect shall expire on January 15, 1946.

The terms of the members of the board, which are to be appointed by the Governor, which shall become effective on January 15, 1946, shall expire as follows: one member, January 15, 1948; two members, January 15, 1949; two members, January 15, 1950.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on January 15, 1964.

The Governor shall appoint the public member as provided at the 1976 portion of the 1975–76 session of the Legislature as a vacancy occurs in the membership of the board.

Vacancies occurring shall be filled by appointment for the unexpired term.

SEC. 23. Section 4001 of the Business and Professions Code is amended to read:

4001. The Governor shall appoint five competent registered pharmacists, residing in different parts of the state, to serve as members of the board. The Governor shall appoint three public members who shall not be a licentiate of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.

SEC. 24. Section 4002 of the Business and Professions Code is amended to read:

4002. Members of the board shall be appointed for a term of four years. Each member shall hold office until the appointment and qualification of his successor or until six months shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. The terms of the members of the board in office when this chapter takes effect shall expire as follows: two members, January 15, 1956; two members, January 15, 1957; two members, January 15, 1958; and one member, January 15, 1959.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on January 15, 1963. The terms shall expire in the same relative order as to such members as the terms for which they hold office before this chapter takes effect. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint the public members as provided at the 1976 portion of the 1975–76 session of the Legislature whenever a vacancy occurs.

SEC. 25. Section 4800 of the Business and Professions Code, as amended by Chapter 716 of the 1971 Statutes, is amended to read:

4800. There is in the Department of Consumer Affairs a Board of Examiners in Veterinary Medicine in which the administration of this chapter is vested. The board consists of six members appointed by the Governor, two of whom shall be public members.

SEC. 26. Section 4800 of the Business and Professions Code, as amended by Chapter 1593 of the 1971 Statutes, is amended to read:

4800. There is in the State Department of Health a Board of Examiners in Veterinary Medicine in which the administration of this chapter is vested. The board consists of six members appointed by the Governor, two of whom shall be public members.

SEC. 27. Section 4832 of the Business and Professions Code is amended to read:

4832. (a) There is hereby created within the jurisdiction of the board, an Animal Health Technician Examining Committee,

hereinafter referred to as the examining committee.

(b) The examining committee shall consist of seven members appointed by the Governor. The examining committee shall consist of three veterinarians licensed to practice veterinary medicine in the State of California, one of whom shall be involved in educating animal health technicians, three public members and one member who shall be registered as an animal health technician in the State of California, who shall serve at the pleasure of the Governor. Appointments may be made from lists, if any, submitted by appropriate professional associations and societies.

The Governor shall appoint the public members as provided at the 1976 portion of the 1975–76 session of the Legislature as a vacancy occurs in the office of a licensed veterinarian or a registered animal health technician.

(c) All members of the examining committee shall be citizens of the United States and residents of the State of California. All doctors of veterinary medicine who are appointed members of the examining committee, shall have been licensed to practice veterinary medicine at least five years preceding their appointments.

(d) The members of the examining committee shall be appointed by the Governor and shall serve for a term of four years, except that the original examining committee appointments may be staggered to achieve rotational terms. No person may serve as a member of the committee for more than two consecutive terms.

(e) The first animal health technician appointed to the committee shall upon appointment become a registered animal health technician, provided such person meets the eligibility requirements to take the written and practical examination as established in Section 4841.5.

SEC. 28. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs a State Board of Accountancy, which consists of eight members appointed by the Governor, four of whom shall be certified public accountants, one of whom shall be a public accountant, and three of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The appointment of the two public accountants to membership on the board, authorized by the amendment made to this section at the 1959 Regular Session of the Legislature, shall be made as the terms of the members of the board in office at the effective date of the amendment to this section expire.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on November 26, 1962.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted

to the Legislature at the 1970 Regular Session to fill any vacancy occurring in the office of a certified public accountant member whose term expires November 26, 1972. If a vacancy occurs in more than one of such offices simultaneously, the Govenor shall determine which of those offices shall be filled by appointment of the additional public member.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licentiate of the board.

SEC. 29. Section 5514 of the Business and Professions Code is amended to read:

5514. The membership of the board shall be composed of nine members, three of whom shall be architects, one of whom shall be a building designer, and five of whom shall be public members.

The three architect members of the board shall be selected from architects in good standing who have been licensed and in practice in this state for a least eight years at the time of appointment, one of whom shall be a resident and in practice in southern California and one of whom shall be a resident and in practice in northern or central California.

The building designer member of the board shall be selected from among building designers who have been engaged as principals in the business of building design for at least eight years in the state.

The public members of the board shall not be licentiates of the board.

The member of the board who is a registered building designer shall not act or vote on applicants for certification who are other than registered building designers.

The members of the board in office on the effective date of the amendment made to this section at the 1963 Regular Session may continue in office until the expiration of their terms.

SEC. 30. Section 5515 of the Business and Professions Code is amended to read:

5515. The terms of the members of the state board in office when the amendment to this section takes effect shall expire as follows: two members, January 15, 1942; four members, January 15, 1943; three members, January 15, 1944; one member, January 15, 1945.

Appointments to fill the vacancies arising by reason of the expiration of term of office shall be filled as follows: For vacancies occurring January 15, 1942, one person shall be appointed; for vacancies occurring January 15, 1943, two persons shall be appointed; for vacancies occurring January 15, 1944, one person shall be appointed; and for vacancies occurring January 15, 1945, one person shall be appointed. Thereafter there shall be as many appointments as there are vacancies. Every person appointed after January 15, 1942, shall serve for four years and until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on January 15, 1964.

No person shall serve as a member of the board for more than three consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

The Governor shall, on or before January 1, 1964, appoint the architect member and the building designer members provided for at the 1963 Regular Session of the Legislature. Their terms of office shall expire as follows: the architect member, January 15, 1965; one building designer member, January 15, 1966; and one building designer member, January 15, 1967. Thereafter, each member shall serve for four years and until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session to fill the vacancy created by the expiration of the term of office of the building designer member whose term expires January 15, 1971. The first appointment shall be for a term expiring June 1, 1974. Each appointment thereafter shall be for a four-year term expiring on June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of licentiate representation, occurring in the office of a member who is a licentiate of the board.

SEC. 31. Section 5620 of the Business and Professions Code is amended to read:

5620. There is in the Department of Consumer Affairs a California State Board of Landscape Architects, which shall consist of six members appointed by the Governor. The membership of the board shall at all times consist of one member who is a resident of, and practices landscape architecture in southern California and one member who is a resident of, and practices landscape architecture in northern California. Two members of the board shall be licensed to practice landscape architecture in this state. The other four shall be public members who shall not be licentiates of the board.

SEC. 32. Section 5621 of the Business and Professions Code is amended to read:

5621. The terms of the members of the board first appointed shall expire as follows: one member January 15, 1954, two members January 15, 1955, two members January 15, 1956. The Governor shall, within 90 days after January 15, 1962, appoint the first public member

of the board, and his term shall expire on January 15, 1965. Thereafter appointments shall be for a four-year term. 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 prior to the expiration of the term shall be filled by appointment for the unexpired term.

No person shall serve as a member of the board for more than three consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session to fill the vacancy created by the expiration of the term of office of the landscape architect member from southern California whose term expires January 15, 1971. The first appointment shall be for a term expiring June 1, 1974. Each appointment thereafter shall be for a four-year term expiring on June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of licentiate representation, occurring in the office of a member who is a licentiate of the board.

SEC. 33. Section 6500 of the Business and Professions Code is amended to read:

6500. There is in the Department of Consumer Affairs a State Board of Barber Examiners, which consists of five members appointed by the Governor, three of whom shall be public members and two of whom shall be qualified as provided in Section 6501.

SEC. 34. Section 6502 of the Business and Professions Code is amended to read:

6502. Members of the board shall be appointed for a term of four years and they shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than three consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

The terms of the members of the board in office when this chapter takes effect shall expire as follows: one member, January 15, 1941; one member, January 15, 1942; one member, January 15, 1943. The terms shall expire in the same relative order as to each member as the term for which he holds office before this chapter takes effect.

The Governor shall, on or before January 1, 1962, appoint the persons to fill the offices created by the Legislature at the 1961 Regular Session, and their terms shall expire on January 15, 1964.

Vacancies shall be filled by appointment for the unexpired term.

The Governor may remove a member for cause.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session to fill the vacancy created by the expiration of the term of office of the barber member whose term expires January 15, 1971. The first appointment shall be for a term expiring June 1, 1974. Each appointment thereafter shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires. The persons so appointed shall not receive a salary, but shall receive the same per diem compensation and reimbursement as the other public member.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licentiate of the board.

SEC. 35. Section 6711 of the Business and Professions Code is amended to read:

6711. Each member of the board shall be a citizen of the United States. Four members shall be registered under this chapter. One member shall be licensed under the Land Surveyors' Act, Chapter 15 (commencing with Section 8700) of this division, and six shall be public members who are not registered under this act or licensed under the Land Surveyors' Act. Each member, except the public members, shall have at least 12 years active experience and shall be of good standing in his profession. Each member shall be at least 30 years of age, and shall have been a resident of this state for at least five years immediately preceding his appointment.

SEC. 36. Section 6712 of the Business and Professions Code is amended to read:

6712. All appointments to the board shall be for a term of four years. Vacancies shall be filled by appointment for the unexpired term. Each such member appointed to fill a new term or vacancy shall be a registered professional engineer in the same branch as his predecessor. Each appointment thereafter shall be for a four-year term expiring on June 1 of the fourth year following the year in which the previous term expired. Vacancies shall be filled by appointment for the unexpired term.

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. No person shall serve as a member of the board for more than two consecutive terms, but this provision shall not apply to any member in office on November 23, 1970.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of licentiate representation, occurring in the office of a member who is a licentiate of the board.

SEC. 37. Section 6865.5 of the Business and Professions Code is

amended to read:

6865.5. Of the seven members of the Collection Agency Advisory Board, three members shall have been actively engaged in business as a licensed collector or manager of a licensed collection agency in this state for a minimum period of five consecutive years immediately preceding his appointment and shall continue in good standing in such capacity during his term of office. Four members shall be public members, who may be customers of a licensee but shall not be licensees or engage in any business or profession in which any part of the fees, compensation or revenue thereof is derived from any licensee.

SEC. 38. Section 6866 of the Business and Professions Code is amended to read:

6866. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The terms of the members first appointed shall expire as follows: one member, June 30, 1960; one member, June 30, 1961; one member, June 30, 1962; and two members, June 30, 1963.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

No members shall serve more than two terms of office.

The Governor shall appoint one of the public members provided for at the 1970 Regular Session of the Legislature to fill the first vacancy occurring, after the effective date of the amendment made to Section 6865.5 at that session, by the expiration of a term of office of a member who is engaged in business as a licensed collector or manager of a licensed collection agency.

The Governor shall fill the new position created on the effective date of the 1970 amendments to Section 6865.5, on or before July 1, 1971. The term shall expire on June 30, 1973. Thereafter appointments shall be for a term of four years.

The Governor shall appoint the additional public member provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licensed collector or manager of a licensed collection agency.

SEC. 39. Section 7002 of the Business and Professions Code is amended to read:

7002. One member of the board shall be a general engineering contractor, two members shall be general building contractors, two members shall be specialty contractors, one member shall be a member of a labor organization representing the building trades, and seven 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.

42116 28765 406

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. 40. 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 of the Legislature, and their terms shall expire on June 1, 1980.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of contractor representation, occurring in the office of a member who is not a public member.

SEC. 41. Section 7301 of the Business and Professions Code is amended to read:

7301. There is in the Department of Consumer Affairs a State Board of Cosmetology, which consists of seven members appointed by the Governor, four of whom shall be public members.

Wherever in this chapter, "board" is used it refers to the State Board of Cosmetology.

SEC. 42. Section 7303 of the Business and Professions Code is amended to read:

7303. The terms of the members of the board in office when the amendment made to this section at the 1961 Regular Session of the Legislature takes effect shall expire as follows: two members January 15, 1962, one member January 15, 1963, one member January 15, 1964, one member January 15, 1965. Such terms shall expire in the same relative order as to each member as the term for which he holds office at the time said amendment takes effect. The term of the additional licensee member and the public member provided for by the amendment made to Section 7301 of this code at the 1961 Regular Session of the Legislature shall expire on January 15, 1964, and January 15, 1965, respectively. Thereafter members of the board shall be appointed for a term of four years and shall hold office until the appointment and qualifications of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No member shall serve as a member of the board for more than two consecutive terms.

Vacancies occurring shall be filled by appointment within 60 days, and vacancies occurring during a term shall be filled for the unexpired term.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session to fill the vacancy created by the expiration of the term of office of the member of the board whose term expires January 15, 1971. The first appointment shall be for a term expiring June 1, 1974. Each appointment thereafter shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licentiate of the board.

SEC. 43. Section 7601 of the Business and Professions Code is amended to read:

7601. There is in the Department of Consumer Affairs a State Board of Funeral Directors and Embalmers which consists of eight members appointed by the Governor, three of whom shall be licentiates of the board, and five of whom shall be public members.

SEC. 44. Section 7603 of the Business and Professions Code is amended to read:

7603. Members of the board shall be appointed for a term of four years and they shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than three consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

The terms of the members of the board in office when this chapter takes effect shall expire as follows: one member, January 15, 1940; two members, January 15, 1941; one member, January 15, 1942; and one member, January 15, 1943. The terms shall expire in the same relative order as to each member as the terms for which he holds office before this chapter takes effect.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on January 15, 1964.

Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session to fill the vacancy created by the expiration of the term of office of the member of the board whose term expires January 15, 1971. The first appointment shall be for a term expiring June 1, 1974. Each appointment thereafter shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the additional public member provided for by the amendments to Section 7601 enacted at the 1971 Regular Session of the Legislature for a term expiring June 1, 1974. Each appointment thereafter shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the additional licentiate member provided for by the amendments to Section 7601 enacted at the 1971 Regular Session of the Legislature for a term expiring June 1, 1974. Each appointment thereafter shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licentiate of the board.

SEC. 45. Section 7810 of the Business and Professions Code is amended to read:

7810. The State Board of Registration for Geologists and Geophysicists is within the department and is subject to the jurisdiction of the department. The board shall consist of eight members appointed by the Governor, five of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist.

SEC. 46. Section 7811 of the Business and Professions Code is amended to read:

7811. Each member of the board shall be a citizen of the United States, shall be at least 30 years of age, and shall have been a resident of this state for at least five years immediately preceding his appointment. Each of the first appointed geologist members of the

board shall have at least 12 years active experience and shall be a qualified geologist; each subsequent geologist member of the board shall be a geologist registered under this chapter. The first appointed geophysicist member shall have at least 12 years active experience and shall be a qualified geophysicist. Each subsequent geophysicist member shall be a geophysicist registered under this chapter. The board shall include not less than one engineering geologist and one petroleum geologist, as determined by the Governor.

SEC. 47. Section 7814 of the Business and Professions Code is amended to read:

7814. The terms of the members of the board first appointed shall expire as follows: two members, January 1, 1970; two members, January 1, 1971; and three members, January 1, 1972. The term of the geophysicist member of the board first appointed shall be one year. Thereafter, except as provided in Section 130 of this code, appointments shall be for a four-year term. 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 prior to the expiration of the term shall be filled by appointment for the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session to fill the vacancy created by the expiration of the term of office of the geologist member from Administrative District No. 5 whose term expires January 1, 1971. The first appointment shall be for a term expiring June 1, 1974. Each appointment thereafter shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of geologist and geophysicist representation, occurring in the office of a member who is a geologist or geophysicist.

SEC. 48. Section 8000 of the Business and Professions Code is amended to read:

8000. There is in the Department of Consumer Affairs a Certified Shorthand Reporters Board, which consists of five members appointed by the Governor, three of whom shall be public members and two of whom shall be holders of certificates issued under this chapter who have been actively engaged as shorthand reporters within this state for at least five years immediately preceding their appointment.

SEC. 49. Section 8001.5 of the Business and Professions Code is amended to read:

8001.5. Members of the board shall hold office until the

appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms except as provided in Section 131. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a holder of a certificate issued under this chapter.

SEC. 50. Section 8521 of the Business and Professions Code is amended to read:

8521. The board is composed of six members, two of whom shall be, and shall have been for a period of not less than five years preceding the date of their appointment, operators licensed under this chapter actively engaged in the business of pest control and who are residents of this state, and four public members who shall not be licentiates of the board.

SEC. 51. Section 8522 of the Business and Professions Code is amended to read:

8522. Members of the board shall be appointed by the Governor for a term of four years, subject to removal by him at his pleasure.

The terms of the members of the board in office when this chapter takes effect shall expire as follows:

Two members, January 15, 1942; one member, January 15, 1943; one member, January 15, 1944; and one member, January 15, 1945.

The terms shall expire in the same relative order as to each member as the terms for which he holds office before this chapter takes effect.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on January 15, 1965.

Vacancies shall be filled by the Governor for the unexpired term.

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. No person shall serve as a member of the board for more than three consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session to fill the vacancy created by the expiration of the term of office of the member whose term expires January 15, 1971. The first appointment shall be for a term expiring June 1, 1974. Each appointment thereafter shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any

vacancy occurring in the office of a member who is a licentiate of the board.

SEC. 51.3. Section 9001 of the Business and Professions Code, as amended by Chapter 716 of the Statutes of 1971, is amended to read:

9001. There is in the Department of Consumer Affairs a Board of Behavioral Science Examiners which consists of 11 members appointed by the Governor with the advice and consent of the Senate.

SEC. 51.5. Section 9001 of the Business and Professions Code, as amended by Chapter 1593 of the Statutes of 1971, is amended to read:

9001. There is in the State Department of Health a Board of Behavioral Science Examiners which consists of 11 members appointed by the Governor with the advice and consent of the Senate.

SEC. 52. Section 9002 of the Business and Professions Code is amended to read:

9002. Two members of the board shall be state-licensed clinical social workers, one shall be a licensed educational psychologist, two shall be state-licensed marriage, family and child counselors, and six shall be public members. Each member, except the six public members, shall hold at least a master's degree from an accredited college or university and shall have at least two years of experience in his profession.

SEC. 52.5. Section 9002.1 of the Business and Professions Code is repealed.

SEC. 53. Section 9003 of the Business and Professions Code is amended to read:

9003. Each member of the board, except the members first appointed, shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. The terms of the members first appointed shall expire as follows: three members, January 15, 1970; three members, January 15, 1971; and three members, January 15, 1972. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of professional representation, occurring in the office of a member who is a social worker or marriage, family and child counselor.

SEC. 54. Section 9115 of the Business and Professions Code is amended to read:

9115. There is in the Department of Consumer Affairs a State Board of Registered Construction Inspectors consisting of 12 members appointed by the Governor. One member shall be a licensed architect, one a licensed contractor, and one a registered engineer. Two members shall be construction inspectors, each from a different division of construction inspection. Seven members shall

be public members. Except for the public members, each member shall have had at least five years active experience in his profession or vocation prior to his appointment. All members shall be citizens of the United States, residents of California, and of good moral character.

SEC. 55. Section 9116 of the Business and Professions Code is amended to read:

9116. The terms of the members first appointed shall expire as follows: three on June 1, 1975; three on June 1, 1976; three on June 1, 1977; and three on June 1, 1978. Appointments thereafter shall be for four-year terms. Vacancies shall be filled by appointment for the unexpired term, and the Governor shall give consideration to the persons nominated by the board. Each member shall continue in office until the appointment and qualification of his successor or until one year has elapsed since the expiration of his term, whichever first occurs. No member shall serve more than two consecutive terms.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a not a public member.

SEC. 56. Section 9530 of the Business and Professions Code is amended to read:

9530. There is in the Department of Consumer Affairs the State Board of Fabric Care, which consists of seven members appointed by the Governor and confirmed by the Senate. The seven members of the board shall consist of four public members and three persons licensed or registered by the board. All board member licensees or registered persons shall have been actively engaged in the drycleaning industry for at least three years and after January 1, 1972, shall have been actively engaged in the drycleaning industry for at least five years. It is desirable that members from the drycleaning industry be so selected that there shall be a geographical balance.

Each member of the board shall receive a per diem and expenses as provided in Section 103.

SEC. 57. Section 9531 of the Business and Professions Code is amended to read:

9531. Members of the board shall be appointed for a term of four years, and they shall serve until the appointment and qualification of their successor, but in such case no member whose term of office has expired shall serve for a period longer than one year, unless reappointed to the board. No member shall serve more than two successive regular four-year terms, but this provision shall not prevent any member of the board from completing his present term of office. The terms of the members first appointed shall expire as follows:

Three on January 15, 1946.

Three on January 15, 1947.

One on January 15, 1949.

The terms shall, until 1970, expire in the same relative order as to the members first appointed. Commencing with the terms expiring in 1970, the terms of the members shall expire as follows:

Two on June 1, 1970.

Two on June 1, 1971.

Two on June 1, 1972.

One on June 1, 1973.

The persons appointed to succeed the retail plant owner member whose term expires in 1970, and the wholesale plant member whose term expires in 1971, shall be appointed to terms which shall expire June 1, 1972.

Vacancies occurring shall be filled by appointment for the unexpired term. Before entering upon the duties of his office, each member of the board shall take and subscribe to the constitutional oath of office. A majority of the membership shall constitute a quorum for transacting any business of the board. A vacancy on the board shall not impair the right of the remaining members of the board to perform all duties and exercise the authority therein vested in the board. The Governor may remove a member for cause, and shall remove any member who ceases to be actively engaged in the drycleaning industry.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is licensed or registered by the board.

SEC. 58. Section 9625 of the Business and Professions Code is amended to read:

9625. There is in the department a cemetery board which consists of six members, including four members representing the public at large. The terms of the members first appointed shall expire: one, January 15, 1950; one, January 15, 1951; one, January 15, 1952; and two, January 15, 1953. The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on January 15, 1964. Thereafter appointments shall be for a four-year term. The members shall be appointed by the Governor and confirmed by the Senate.

The additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session shall be appointed to fill the vacancy created by the expiration of the term of office of the member whose term expires January 15, 1971. The first appointment shall be for a term expiring June 1, 1974. Each appointment thereafter shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is not a public member.

SEC. 59. Section 9927 of the Business and Professions Code is

amended to read:

9927. Three members of the board shall be representatives of the employment agency industry, each of whom shall be active in an employment agency and be a proprietor, partner, or corporate officer thereof, or a qualified examinee, and shall have held a valid, current California employment agency license for five consecutive years immediately preceding the appointment, and four shall be public members.

SEC. 60. Section 9929 of the Business and Professions Code is amended to read:

9929. Notwithstanding any other provision of this code, each member of a board 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.

The terms of the members first appointed to the board shall expire as follows: three members, January 1, 1969; three members, January 1, 1970; and one member, January 1, 1971. Thereafter appointments shall be made for a term of four years.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

No member shall serve more than two consecutive terms of office.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licentiate of the board.

SEC. 61. Section 19035.1 of the Business and Professions Code is amended to read:

19035.1. Three members of the board shall be members of the industry at large and four members shall represent the public at large. All of the members, except the members representing the public at large, shall have been actively engaged and licensed as a manufacturer, custom upholsterer, retailer, or sterilizer, as the case may be, for a period of not less than five years immediately preceding the date of their appointment and shall continue to be so engaged and licensed during the terms of their office.

SEC. 62. Section 19035.3 of the Business and Professions Code is amended to read:

19035.3. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of his term, whichever first occurs.

The terms of the members first appointed to the board shall expire as follows: the sterilizer, June 30, 1956; the supply dealer and the member representing the public at large, June 30, 1957; one manufacturer and one retailer, June 30, 1958; one manufacturer and one retailer, June 30, 1959.

The Governor shall appoint the upholstered-furniture manufacturer authorized by the amendment made to Section

19035.1 at the 1961 Regular Session of the Legislature to the vacancy occurring on the board on June 30, 1962 in the membership of a manufacturer.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

Each member appointed to the board, except the member appointed to represent the public at large, shall be from the same branch of the furniture and bedding industry as his predecessor.

No member shall serve more than two consecutive terms of office.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session to fill any vacancy occurring in the office of the supply dealer member whose term expires June 30, 1973.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a member of the industry at large.

SEC. 63. Section 19035.35 of the Business and Professions Code is amended to read:

19035.35. Subject to the provisions of Sections 19035.1 and 19035.3, each vacancy occurring in the office of an industry member of the board after the effective date of this section shall be filled by the appointment of an industry member at large, without regard to any branch of the industry.

SEC. 64. It is the intent of the Legislature, if this bill and Senate Bill No. 1518 are both chaptered and amend Sections 4001 and 5000 of the Business and Professions Code, and this bill is chaptered after Senate Bill No. 1518, that the amendments to Sections 4001 and 5000 proposed by Senate Bill No. 1518 be given effect. Therefore, if this bill and Senate Bill No. 1518 are both chaptered, both amend Section 4001 and 5000, and Senate Bill No. 1518 is chaptered before this bill, Sections 23 and 28 of this act shall not become operative.

CHAPTER 1189

An act to amend Sections 1601, 1602, 1603, 1621.1, 1622.2, 1715, 1724, 1725, 2603, 2604, 3010, 3013, 4000, 4001, 4002, 5000, 6712, and 9997 of the Business and Professions Code, relating to business and professions, and making an appropriation therefor.

[Approved by Governor September 22, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 1601 of the Business and Professions Code, as amended by Chapter 716 of the Statutes of 1971, is amended to read:

1601. There is in the Department of Consumer Affairs a Board of Dental Examiners of California in which the administration of this chapter is vested. The board consists of eight practicing dentists and four public members.

SEC. 2. Section 1601 of the Business and Professions Code as amended by Chapter 1593 of the Statutes of 1971, is amended to read:

1601. There is in the State Department of Health a Board of Dental Examiners of California in which the administration of this chapter is vested. The board consists of eight practicing dentists and four public members.

SEC. 3. Section 1602 of the Business and Professions Code is amended to read:

1602. All of the members of the board, except the public members, shall have been actively and legally engaged in the practice of dentistry in the State of California, for at least five years next preceding the date of their appointment. The public members shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600. No more than one member of the board shall be a member of the faculty of any dental college or dental department of any medical college in the State of California. None of the members, including the public members shall have any financial interest in any such college.

SEC. 4. Section 1603 of the Business and Professions Code is amended to read:

1603. Members of the board shall be appointed by the Governor for a term of four years, and each member shall hold office until the appointment and qualification of his successor or until six months shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The terms of the members of the board in office when this chapter takes effect shall expire as follows: two members, January 15, 1938; one member, January 15, 1939; two members, January 15, 1940; and two members, January 15, 1941. The terms shall expire in the same relative order as to each member as the term for which he holds office before this chapter takes effect.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on January 15, 1963.

A vacancy occurring during a term shall be filled by appointment for the unexpired term, within 30 days after it occurs.

No person shall serve as a member of the board for more than two terms, but this provision shall not prevent any member from completing any term of office in which he may be serving at the time this limitation takes effect.

The Governor shall appoint the dentist member provided for at the 1976 portion of the 1975–76 session of the Legislature for a term

expiring on January 15, 1979. The Governor shall appoint the public members provided for at the 1975–76 session of the Legislature on or before March 1, 1977. The terms of the three public members provided for at the 1976 portion of the 1975–76 session of the Legislature shall expire on January 15, 1978, January 15, 1980 and January 15, 1981.

SEC. 5. Section 1621.1 of the Business and Professions Code is amended to read:

1621.1. The examining committee shall consist of 60 members appointed by the board. The board shall appoint the examining committee members from lists submitted by the dental and dental hygienists associations, if such lists are submitted.

SEC. 6. Section 1621.2 of the Business and Professions Code is amended to read:

1621.2. Members of the examining committee shall possess all of the following qualifications:

(a) Forty-five shall have a valid license to practice dentistry in this state and shall have engaged in the practice of dentistry in this state for at least five years next preceding his appointment.

(b) Fifteen shall have a valid license to practice dental hygiene in this state and shall have practiced dental hygiene in this state for at least five years next preceding his appointment.

(c) Shall not be an officer or faculty member of any college, school or institution engaged in dental instruction.

SEC. 7. Section 1715 of the Business and Professions Code is amended to read:

1715. Licenses issued under the provisions of this chapter, unless specifically excepted, expire at 12 midnight on the legal birth date of a licentiate of the board during the second year of a two-year term if not renewed.

The board shall establish procedures for the administration of the birth date renewal program, including, but not limited to, the establishment of a pro rata formula for the payment of fees by licentiates affected by the implementation of such program and the establishment of a system of staggered license expiration dates such that a relatively equal number of licenses expire annually.

SEC. 8. Section 1724 of the Business and Professions Code is amended to read:

1724. The amount of charges and fees for dentists licensed pursuant to this chapter shall be fixed by the board as is necessary for the purpose of carrying out the responsibilities required by this chapter as it relates to dentists, subject to the following limitations:

(a) The fee for applicants for a license shall not exceed one hundred dollars ($100).

(b) The fee for applicants for examination and for reexamination shall not exceed one hundred dollars ($100). Applicants who are found to be ineligible to take the examination shall be entitled to a refund in an amount fixed by the board.

(c) The fee for renewal of a license shall not exceed sixty dollars ($60).

(d) The delinquency fee shall not exceed twenty-five dollars ($25).

(e) The restoration fee for a license forfeited for nonregistration shall not exceed one hundred dollars ($100).

(f) The penalty for late registration of change of place of practice shall not exceed twenty-five dollars ($25).

(g) The application fee for permission to conduct an additional place of practice shall not exceed one hundred dollars ($100).

(h) The renewal fee for an additional place of practice shall not exceed one hundred dollars ($100).

(i) The fee for issuance of a substitute certificate shall not exceed twenty-five dollars ($25).

SEC. 9. Section 1725 of the Business and Professions Code is amended to read:

1725. The amount of charges and fees for dental auxiliaries licensed pursuant to this chapter shall be fixed by the board as is necessary for the purpose of carrying out the responsibilities required by this chapter as it relates to dental auxiliaries, subject to the following limitations:

(a) The fee for applicants for a license shall not exceed twenty dollars ($20).

(b) The fee for a nonclinical examination shall not exceed thirty dollars ($30).

(c) The fee for a clinical examination shall not exceed fifty dollars ($50).

(d) The renewal fee shall not exceed thirty dollars ($30).

(e) The delinquency fee shall not exceed fifteen dollars ($15).

(f) The restoration fee for a license forfeited for nonregistration shall not exceed fifty dollars ($50).

(g) The fee for a substitute certificate shall not exceed twenty-five dollars ($25).

(h) No fees or charges other than those listed in subdivision (a) through (g) above shall be levied by the board in connection with the licensure of dental auxiliaries pursuant to this chapter.

SEC. 9.5. Section 2603 of the Business and Professions Code is amended to read:

2603. The members of the examining committee shall be the following:; three physical therapists who shall have practiced physical therapy for five years and shall be licensed by the board, and three public members who shall not be licentiates of the committee or of any board under this division or of any board referred to in Sections 1000 and 3600.

SEC. 9.6. Section 2604 of the Business and Professions Code is amended to read:

2604. The members of the examining committee shall be appointed by the Governor. The person appointed to succeed one of the physical therapist members whose term expires January 15, 1973, shall be appointed for a term expiring on June 15, 1975, and the other

physical therapist appointed shall be appointed for a term expiring on June 15, 1976. Thereafter appointments shall be for a term of four years.

The Governor shall fill the new position created on the effective date of the 1968 amendment to Section 2603 by appointment of a physical therapist who was registered under Chapter 5.6 (commencing with Section 2600) of this division, repealed at the 1968 Regular Session of the Legislature, and who is at the time of his appointment licensed under this chapter. This term shall expire January 15, 1973.

The Governor shall appoint the public member as provided at the 1976 portion of the 1975–76 session of the Legislature as vacancies, consistent with the requirements of licentiate representation, occur in the office of any of the members who are licensed under this chapter.

Not more than one member of the examining committee shall be appointed from the full-time faculty of any university, college, or other educational institution.

No person may serve as a member of the examining committee for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term. Annually the examining committee shall elect one of its members as chairman.

The Governor shall have the power to remove any member of the examining committee from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

SEC. 9.5. Section 2604 of the Business and Professions Code is amended to read:

2604. The members of the examining committee shall be appointed by the Governor. The person appointed to succeed one of the physical therapist members whose term expires January 15, 1973, shall be appointed for a term expiring on June 15, 1975, and the other physical therapist appointed shall be appointed for a term expiring on June 15, 1976. Thereafter appointments shall be for a term of four years, expiring on the first day of June of each year.

The Governor shall appoint the public member as provided at the 1976 portion of the 1975–76 session of the Legislature as vacancies, consistent with the requirements of licentiate representation, occur in the office of any of the members who are licensed under this chapter.

Not more than one member of the examining committee shall be appointed from the full-time faculty of any university, college, or other educational institution.

No person may serve as a member of the examining committee for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term. Annually the examining committee shall elect one of its members as chairman.

The Governor shall have the power to remove any member of the examining committee from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

SEC. 10. Section 3010 of the Business and Professions Code, as amended by Chapter 716 of the 1971 Statutes, is amended to read:

3010. There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of nine members appointed by the Governor, three of whom shall be public members.

Six members of the board shall constitute a quorum.

SEC. 11. Section 3010 of the Business and Professions Code, as amended by Chapter 1593 of the 1971 Statutes, is amended to read:

3010. There is in the State Department of Health a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of nine members appointed by the Governor, three of whom shall be public members.

Six members of the board shall constitute a quorum.

SEC. 12. Section 3013 of the Business and Professions Code is amended to read:

3013. Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his successor or until six months shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The terms of the members of the board in office when this chapter takes effect shall expire on January 15, 1946.

The terms of the members of the board, which are to be appointed by the Governor, which shall become effective on January 15, 1946, shall expire as follows: one member, January 15, 1948; two members, January 15, 1949; two members, January 15, 1950.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on January 15, 1964.

The Governor shall appoint the professional member provided for at the 1976 portion of the 1975–76 session of the Legislature for a term expiring June 1, 1978.

The Governor shall appoint the public members as provided at the 1976 portion of the 1975–76 session of the Legislature for terms expiring on June 1, 1978 and June 1, 1981.

Vacancies occurring shall be filled by appointment for the unexpired term.

SEC. 13. Section 4000 of the Business and Professions Code, as amended by Chapter 716 of the Statutes of 1971, is amended to read:

4000. There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 10 members who shall be appointed by the Governor.

SEC. 14. Section 4000 of the Business and Professions Code, as amended by Chapter 1593 of the Statutes of 1971, is amended to read:

4000. There is in the State Department of Health a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 10

members who shall be appointed by the Governor.

SEC. 15. Section 4001 of the Business and Professions Code is amended to read:

4001. The Governor shall appoint seven competent registered pharmacists, residing in different parts of the state, to serve as members of the board. The Governor shall appoint three public members who shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.

SEC. 16. Section 4002 of the Business and Professions Code is amended to read:

4002. Members of the board shall be appointed for a term of four years. Each member shall hold office until the appointment and qualification of his successor or until six months shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. The terms of the members of the board in office when this chapter takes effect shall expire as follows: two members, January 15, 1956; two members, January 15, 1957; two members, January 15, 1958; and one member, January 15, 1959.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on January 15, 1963. The terms shall expire in the same relative order as to such members as the terms for which they hold office before this chapter takes effect. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint the public member provided for at the 1976 portion of the 1975–76 session of the Legislature on or before March 1, 1977.

SEC. 17. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs a State Board of Accountancy, which consists of nine members appointed by the Governor, four of whom shall be certified public accountants, two of whom shall be public accountants, and three of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The appointment of the two public accountants to membership on the board, authorized by the amendment made to this section at the 1959 Regular Session of the Legislature, shall be made as the terms of the members of the board in office at the effective date of the amendment to this section expire.

The Governor shall, on or before January 1, 1962, appoint the first public member of the board, and his term shall expire on November 26, 1962.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session to fill any vacancy occurring in the office of a certified public accountant member

whose term expires November 26, 1972. If a vacancy occurs in more than one of such offices simultaneously, the Governor shall determine which of those offices shall be filled by appointment of the additional public member.

The Governor shall appoint the public member provided for at the 1976 portion of the 1975–76 session of the Legislature on or before March 1, 1977.

SEC. 18. Section 6712 of the Business and Professions Code is amended to read:

6712. All appointments to the board shall be for a term of four years. Vacancies shall be filled by appointment for the unexpired term. Each such member appointed to fill a new term or vacancy shall be a registered professional engineer in the same branch as his predecessor. Each appointment thereafter shall be for a four-year term expiring on June 1 of the fourth year following the year in which the previous term expired. Vacancies shall be filled by appointment for the unexpired term.

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. No person shall serve as a member of the board for more than two consecutive terms, but this provision shall not apply to any member in office on November 23, 1970.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of licentiate representation, occurring in the office of a member who is a licentiate of the board.

As vacancies among the professional membership occur on the board, the Governor shall appoint professional members so that one is licensed to practice engineering as a civil engineer, one as an electrical engineer, one as a mechanical engineer, and another is authorized to use the title of structural engineer.

SEC. 19. Section 9997 of the Business and Professions Code is amended to read:

9997. 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 one hundred dollars ($100) 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 one hundred dollars ($100) for application to transfer or assign a license.

(e) An annual license fee which shall be set by the bureau at not more than three hundred dollars ($300) for an employment agency

license, except that the annual license fee for an employment agency engaged exclusively in the business of procuring babysitting employment for others shall be set by the bureau at not more than seventy-five dollars ($75).

(f) An annual license fee which shall be set by the bureau at not more than one hundred fifty dollars ($150) for license of each branch office, except that the annual license fee for each branch office license for an employment agency engaged exclusively in the business of procuring babysitting employment for others shall be set by the bureau at not more than thirty-eight dollars ($38).

(g) An interim employment agency license fee which shall be set by the bureau at not more than one hundred fifty dollars ($150).

(h) A reinstatement fee of twenty-five dollars ($25), in addition to the current renewal fee, to reinstate a license revoked or suspended.

No fees shall be prorated for the unexpired portion of the license year.

The fees shall be set by the bureau within the limits prescribed by this section in such amounts as it determines will be reasonably necessary to provide only sufficient revenue for the administration and enforcement of this chapter.

SEC. 20. It is the intent of the Legislature, if this bill and Senate Bill No. 1951 are both chaptered and become effective January 1, 1977, both bills amend Section 2604 of the Business and Professions Code, and this bill is chaptered after Senate Bill No. 1951, that the amendments to Section 2604 proposed by both bills be given effect and incorporated in Section 2604 in the form set form in Section 9.5 of this act. Therefore, Section 9.5 of this act shall become operative only if this bill and Senate Bill No. 1951 are both chaptered and become effective January 1, 1977, both amend Section 2604, and this bill is chaptered after Senate Bill No. 1951, in which case Section 9.6 of this act shall not become operative.

CHAPTER 1190

An act to amend Sections 90, 91, 93, 98, 101.5, 102, 103, 104, and 210 of, to add Sections 98.1, 98.2, 98.3, 98.4, 98.8, and 105 to, and to repeal and add Section 98.5 of, the Labor Code, relating to the Division of Labor Law Enforcement.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 90 of the Labor Code is amended to read:

90. The Labor Commissioner, his deputies and agents, shall have free access to all places of labor. Any person, or agent or officer thereof, who refuses admission to the Labor Commissioner or his deputy or agent or who, upon request, willfully neglects or refuses to furnish them any statistics or information, pertaining to their lawful duties, which are in his possession or under his control, is guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars ($500).

SEC. 2. Section 91 of the Labor Code is amended to read:

91. Any person who willfully impedes or prevents the Labor Commissioner or his deputies or agents in the performance of duty, is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisonment for not less than seven nor more than 30 days in the county jail, or both.

SEC. 3. Section 93 of the Labor Code is amended to read:

93. Obedience to subpoenas issued by the Labor Commissioner, or his deputies or agents shall be enforced by the courts. It is a misdemeanor to ignore willfully such a subpoena if it calls for an appearance at a distance from the place of service of 100 miles, or less.

SEC. 4. Section 98 of the Labor Code is amended to read:

98. (a) The Labor Commissioner shall have the authority to investigate employee complaints. The Labor Commissioner may provide for a hearing in any action to recover wages, penalties, and other demands for compensation properly before the division or the Labor Commissioner including orders of the Industrial Welfare Commission, and shall determine all matters arising under his or her jurisdiction. It shall be within the jurisdiction of the Labor Commissioner to accept and determine claims from holders of payroll checks or payroll drafts returned unpaid because of insufficient funds, if, after a diligent search, the holder is unable to return the dishonored check or draft to the payee and recover the sums paid out. Within 30 days of filing of the complaint, the Labor Commissioner shall notify the parties as to whether a hearing will be held within a reasonable period of time, or whether action will be taken in accordance with Section 98.3, or whether no further action will be taken on the complaint. However, the Labor Commissioner may postpone or grant additional time before setting a hearing if the Labor Commissioner finds that such would lead to an equitable and just resolution of the dispute.

It is the intent of the Legislature that hearings held pursuant to this section be conducted in an informal setting preserving the right of the parties.

(b) When a hearing is set, a copy of the complaint, which shall include the amount of compensation requested, together with a notice of time and place of the hearing, shall be served on all parties, personally or by certified mail.

01522 287410 475

(c) Within 10 days after service of the notice and the complaint, a defendant may file an answer with the Labor Commissioner in such form as the Labor Commissioner may prescribe, setting forth the particulars in which the complaint is inaccurate or incomplete and the facts upon which the defendant intends to rely.

(d) No pleading other than the complaint and answer of the defendant or defendants shall be required. Both shall be in writing and shall conform to the form and the rules of practice and procedure adopted by the Labor Commissioner.

(e) Evidence on matters not pleaded in the answer shall be allowed only on such terms and conditions as the Labor Commissioner shall impose. In all such cases, the claimant shall be entitled to a continuance for purposes of review of such new evidence.

(f) If the defendant fails to appear or answer within the time allowed under this chapter, no default shall be taken against him or her, but the Labor Commissioner shall hear the evidence offered and shall issue an order, decision, or award in accordance with the evidence. A defendant failing to appear or answer, or subsequently contending to be aggrieved in any manner by want of notice of the pendency of the proceedings, may apply to the Labor Commissioner for relief in accordance with the provisions of Section 473 of the Code of Civil Procedure. The Labor Commissioner may afford such relief. No right to relief, including the claim that the findings or award of the Labor Commissioner or judgment entered thereon are void upon their face, shall accrue to such defendant in any court unless prior application is made to the Labor Commissioner in accordance with this chapter.

(g) All hearings conducted pursuant to this chapter are governed by the division and by the rules of practice and procedure adopted by the Labor Commissioner.

SEC. 5. Section 98.1 is added to the Labor Code, to read:

98.1. (a) Within 15 days after the hearing is concluded, the Labor Commissioner shall file in the office of the division a copy of the order, decision or award. Such order, decision or award shall include a summary of the hearing and the reasons for the decision. Upon filing of the order, decision or award, the Labor Commissioner shall serve a copy of the decision personally or by certified mail on the parties. The notice shall also advise the parties of their right to appeal the decision or award and further advise the parties that failure to do so within the period prescribed by this chapter shall result in the decision or award becoming final and enforceable as a judgment by the appropriate superior court.

(b) For the purpose of this section, an award shall include such sums found owing, damages proved, and any penalties awarded pursuant to the provisions of this code.

(c) All awards granted pursuant to a hearing under this chapter shall accrue interest on all due and unpaid sums at the same rate as judgments in civil actions, except that no interest shall accrue on

such sums during the course of a court appeal. Such interest will run from the date of notice of the award or decision.

SEC. 6. Section 98.2 is added to the Labor Code, to read:

98.2. (a) Within 10 days after service of notice of an order, decision or award the parties may seek review by filing an appeal to the superior court where the same shall be heard de novo. A copy of the appeal request shall be served upon the Labor Commissioner by the appellant.

(b) If no notice of appeal is filed within 10 days of receipt of the notice of decision or award, the decision or award shall, in the absence of fraud, be deemed the final order.

(c) The Labor Commissioner shall file within 10 days of the order becoming final pursuant to subdivision (b) of this section, a certified copy of the final order with the clerk of the superior court of the appropriate county unless a settlement has been reached by the parties and approved by the Labor Commissioner. Judgment shall be entered immediately by the court clerk in conformity therewith. The judgment so entered shall have the same force and effect as, and shall be subject to all of the provisions of law relating to, a judgment in a civil action; and it may be enforced in the same manner as any other judgment of the court in which it is entered.

(d) Notwithstanding subdivision (c) of this section, the Labor Commissioner may stay execution of any judgment entered upon an order, decision, or award which has become final upon good cause appearing therefore and may impose the terms and conditions of the stay of execution. A certified copy of such stay of execution shall be filed with the clerk entering the judgment.

(e) When a judgment is satisfied in fact, otherwise than by execution, the Labor Commissioner may, upon the motion of either party or on its own motion, order entry of satisfaction of judgment. The clerk of the court shall enter a satisfaction of judgment upon the filing of a certified copy of such order.

SEC. 7. Section 98.3 is added to the Labor Code, to read:

98.3. (a) The Labor Commissioner may prosecute all actions for the collection of wages, penalties, and demands of persons who in the judgment of the Labor Commissioner are financially unable to employ counsel and the Labor Commissioner believes have claims which are valid and enforceable.

The Labor Commissioner may also prosecute actions for the return of worker's tools which are in the illegal possession of another person.

(b) The Labor Commissioner may prosecute action for the collection of wages and other moneys payable to employees or to the state arising out of an employment relationship or order of the Industrial Welfare Commission.

(c) The Labor Commissioner may also prosecute actions for wages or other monetary benefits that are due the Industrial Relations Unpaid Wage Fund.

SEC. 8. Section 98.4 is added to the Labor Code, to read:

98.4. The Labor Commissioner may, upon the request of a

claimant financially unable to afford counsel, represent such claimant in the de novo proceedings provided for in Section 98.2. In the event that such claimant is attempting to uphold the amount awarded by the Labor Commissioner and is not objecting to any part of the Labor Commissioner's final order, the Labor Commissioner shall represent the claimant.

SEC. 9. Section 98.5 of the Labor Code is repealed.

SEC. 10. Section 98.5 is added to the Labor Code, to read:

98.5. The Labor Commissioner shall have the right to intervene in any court proceedings conducted pursuant to Section 98.2 where questions of the interpretation of statutes or administrative regulations are present.

SEC. 11. Section 98.8 is added to the Labor Code, to read:

98.8. The Labor Commissioner shall promulgate all regulations and rules of practice and procedure necessary to carry out the provisions of this chapter.

SEC. 12. Section 101.5 of the Labor Code is amended to read:

101.5. No fees shall be payable for the filing or recording of any document or paper in the performance of any official service by the Labor Commissioner. The amount ordinarily charged for such filing or recording shall be made a part of any judgment recovered by the Labor Commissioner and shall be paid by the Labor Commissioner if sufficient money is collected over and above the wages, penalties, or demands actually due the claimants.

SEC. 13. Section 102 of the Labor Code is amended to read:

102. The sheriff, marshal, or constable shall specify when the summons or process is returned, what costs he would ordinarily have been entitled to for such service, and such costs and the other regular court costs which would have accrued if the action was not by the Labor Commissioner shall be made a part of any judgment recovered by the Labor Commissioner and shall be paid by the Labor Commissioner if sufficient money is collected over and above the wages, penalties, or demands actually due the claimants.

SEC. 14. Section 103 of the Labor Code is amended to read:

103. The Labor Commissioner shall, to the extent provided for by any reciprocal agreement entered into pursuant to Section 64 of this code, or by the laws of any other state, maintain actions in the courts of such other state for the collection of such claims for wages, judgments and other demands and may assign such claims, judgments and demands to the labor department or agency of such other state for collection to the extent that the same may be permitted or provided for by the laws of such state or by reciprocal agreement.

SEC. 15. Section 104 of the Labor Code is amended to read:

104. The Labor Commissioner shall, upon the written request of the labor department or other corresponding agency of any other state or of any person, board, officer or commission of such state authorized to act for and on behalf of such labor department or corresponding agency, maintain actions in the courts of this state

01522 287480 489

upon assigned claims for wages, judgments and demands arising in such other state in the same manner and to the same extent that such actions by the Labor Commissioner are authorized when arising in this state; provided, however, that such actions may be commenced and maintained only in those cases where such other state by appropriate legislation or by reciprocal agreement extends a like comity to cases arising in this state.

SEC. 16. Section 105 is added to the Labor Code, to read:

105. The Labor Commissioner shall provide qualified bilingual persons in public contact positions or as interpreters to assist those in such positions to provide information and services in the language of a limited- or non-English-speaking person, with the primary effort being exerted towards the largest segments of the non-English-speaking persons in this state.

The Labor Commissioner shall provide that an interpreter be present at all hearings and interviews where appropriate.

SEC. 17. Section 210 of the Labor Code is amended to read:

210. In addition to and entirely independent and apart from any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 204, 204b, and 205, shall forfeit to the state the sum of ten dollars ($10) for each failure to pay each employee. The penalty may be recovered by the Labor Commissioner as part of a hearing held to recover unpaid wages and penalties pursuant to this chapter or in an independent civil action. Such action shall be brought in the name of the people of the State of California and the Labor Commissioner and the attorneys thereof may proceed and act for and on behalf of the people in bringing such actions. All money recovered therein shall be paid into the State Treasury to the credit of the General Fund.

CHAPTER 1191

An act to amend Sections 6024, 6026, 6028, 6030, 6031, 6032, 6033, 6040, 6057, 6100, 6130, 6131, 6133, 6138, 6139, 6142, 6144, 6146, 6147, 6148, 6149, 6150, 6151, 6152, 6153, 6160, 6170, 6190, 6200, 6230, 6242, 6244, 6246, 6247, 6248, 6249, 6250, 6251, 6271, 6288, 6336, 6338, 6340, 6341, 6342, 6343, and 6345 of, and the headings of Article 5 (commencing with Section 6030) of Chapter 1 of Division 5 of, and Article 7 (commencing with Section 6340) of Chapter 4 of Division 5 of, to add Sections 70, 71, and 6653.3 to, and Chapter 5 (commencing with Section 6400) to Division 5 of, Chapter 6 (commencing with Section 6800) to Division 5 of, Chapter 7 (commencing with Section 7200) to Division 5 of, and Article 4.5 (commencing with Section 29200) to Chapter 2 of Division 15 of, and to repeal Sections 6001, 6009, 6101, 6124, 6137, 6192, 6201, 6226, and 6302 of, and Chapter 5 (commencing with Section 6400) of Division 5 of, Chapter 6 (commencing with Section 6800) of Division 5 of,

Chapter 7 (commencing with Section 7100) of Division 5 of, and Chapter 8 (commencing with Section 7200) of Division 5 of, the Elections Code, relating to elections.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 70 is added to the Elections Code, to read:

70. Notwithstanding any provision of law to the contrary, there shall be set forth in full in nomination papers required for any primary or final election the oath or affirmation set forth in Section 3 of Article XX of the Constitution and, such requirement shall satisfy the provisions of Section 3 of Article XX of the Constitution with respect to any office or public trust.

SEC. 2. Section 71 is added to the Elections Code, to read:

71. All nomination papers filed in accordance with this code shall be held by the officer with whom they are filed during the term of office for which they are filed and for four years after the expiration of the term. They may thereafter be destroyed unless they have been introduced in evidence in some action or proceeding then pending.

SEC. 3. Section 6001 of the Elections Code is repealed.

SEC. 4. Section 6009 of the Elections Code is repealed.

SEC. 5. Section 6024 of the Elections Code is amended to read:

6024. Each signer of a nomination paper may sign only one paper. He shall declare his intention to support the candidate for nomination, add his place of residence, and give his street and number if any.

SEC. 6. Section 6026 of the Elections Code is amended to read:

6026. Each section shall be prepared with the lines for signatures numbered, and shall have attached the affidavit of the circulator who obtained signatures to it, stating that all the signatures to the attached section were made in his presence, and that to the best of his 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 circulator shall be verified free of charge by any officer authorized to administer oaths.

SEC. 7. Section 6028 of the Elections Code is amended to read:

6028. The nomination paper for a candidate shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF CANDIDATE

Section _____ Page _____

County of _____. Nomination paper for _____ as presidential nominee of the Republican Party.

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 Republican Party. I have not signed the nomination paper of any other candidates for the same office, and further declare that I intend to support the nomination of the candidate named herein at the Republican Party presidential primary to be held on the _____ day of _____, 19__.

Number	Signature	Printed name	Residence
1			
2			
3			
etc.			

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of the candidate named in the signer's statement above as candidate for nomination by the Republican Party at its presidential primary election; that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence, that the signatures were obtained between _____ 19__ and _____ 19__, 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) _____
Circulator

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

_____
Notary Public (or other official)

SEC. 8. The heading of Article 5 (commencing with Section 6030) of Chapter 1 of Division 5 of the Elections Code is amended to read:

Article 5. Circulators

SEC. 9. Section 6030 of the Elections Code is amended to read:
6030. The candidate or his designee may arrange for the

appointment of circulators to serve within the county in which the circulators reside in securing signatures to the nomination paper of the candidate. The circulators thus appointed are the duly authorized circulators to secure signatures to the nomination paper of the candidate in that county. The form on which the circulators are appointed shall be filed with the county clerk of the county in which the circulators reside, at or before the time the nomination paper of the candidate is left with the county clerk for examination. Additional circulators may be appointed in the same manner as the original circulators were appointed.

SEC. 10. Section 6031 of the Elections Code is amended to read:

6031. The circulators may be appointed by the candidate or his designee on a form which shall be substantially as follows:

APPOINTMENT OF CIRCULATORS BY CANDIDATE OR HIS DESIGNEE

I, the undersigned candidate or designee, do hereby appoint the following voters of the County of _____ as circulators to obtain signatures, in that county, to nomination papers for _____ as a candidate in the Republican Party presidential primary, to be held the _____ day of _____, 19__.

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
etc.	etc.

CANDIDATE OR HIS DESIGNEE

(Signed)

Name	Residence
_____	_____

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

_____, County Clerk

By _____, Deputy

SEC. 11. Section 6032 of the Elections Code is amended to read:

6032. Circulators may obtain signatures to the nomination paper of a candidate for whom they were appointed, at any time not more than 104 nor less than 74 days prior to the presidential primary.

SEC. 12. Section 6033 of the Elections Code is amended to read:

6033. The candidate or the candidate's designee shall not appoint a county clerk or deputy county clerk as a circulator; and circulators may not obtain signatures within 100 feet of any election booth or polling place.

SEC. 13. Section 6040 of the Elections Code is amended to read:

6040. Each section of a nomination paper shall be returned by the circulator who circulated it to the candidate or his designee by whom the circulator was appointed. All the sections circulated in any county shall be collected by the candidate or his designee and he shall arrange and leave the sections with the county clerk for examination.

SEC. 14. Section 6057 of the Elections Code is amended to read:

6057. The Secretary of State shall, not later than the 24th day after the election, issue a certification to each person selected as a delegate.

SEC. 15. Section 6100 of the Elections Code is amended to read:

6100. The provisions of this chapter shall be applicable to the presidential primary ballot of the American Independent Party only.

SEC. 16. Section 6101 of the Elections Code is repealed.

SEC. 17. Section 6124 of the Elections code is repealed.

SEC. 18. Section 6130 of the Elections Code is amended to read:

6130. Any three or more voters of the state who are registered as intending to affiliate with the American Independent Party may join as a committee in proposing the nomination of a group of candidates for delegates. The committee may elect its officers, select the candidates for delegates, select the chairman of the committee, arrange for the appointment of circulators, secure the endorsement of the person, if any, preferred by the committee as candidate for presidential nominee, appoint alternates, assemble and file all necessary papers, and take all other action which may be necessary for the organization and election of the group. The committee in performing its functions may act through its officers or designated representatives.

SEC. 19. Section 6131 of the Elections Code is amended to read:

6131. The committee, on or before the 104th day before the presidential primary election, shall file with the Secretary of State a statement containing the name of the committee and the names of its officers.

SEC. 20. Section 6133 of the Elections Code is amended to read:

6133. The candidates of each group shall be selected as follows:

(a) No less than two-thirds shall be selected to represent congressional districts, and each of these candidates shall be a resident of the district which he is selected to represent. Congressional district candidates shall be apportioned among congressional districts according to the ratio which the American Independent Party registration in the district bears to the total statewide registration of the party as determined by the Secretary of State on January 1 of the year in which the presidential primary is held, except that at least one candidate in the group shall be a resident of each congressional district.

(b) No more than one-third may be selected from the state at large without regard to congressional district of residence.

If the names are not so selected, the names shall not be certified to the county clerk by the Secretary of State.

SEC. 21. Section 6137 of the Elections Code is repealed.

SEC. 22. Section 6138 of the Elections Code is amended to read:

6138. Each candidate for delegate to the American Independent Party convention shall file with the Secretary of State, before the circulation of nomination papers of the group of candidates of which he is a member, an affidavit which shall be in substantially the following form:

AFFIDAVIT OF CANDIDATE FOR DELEGATE

State of California
County of _____ } ss.

I, _____, reside at No. _____ Street, in the City (or Town) of _____, in the County of _____ in the _____ Congressional District, State of California; my election precinct is _____ and I reside and am a voter therein, my post office address is _____, County of _____.

I desire to be a candidate, at the presidential primary to be held on the _____ day of _____, 19__, for delegate to the next national convention of the American Independent Party, and if elected as delegate I will qualify.

I personally prefer _____ as nominee of the American Independent Party for President of the United States, and hereby declare to the voters of my party in the State of California that if elected as delegate to their national party convention, I shall to the best of my judgment and ability, support _____ as nominee of the American Independent Party for president of the United States. (This statement of preference shall be omitted where the candidate for delegate is part of a group not expressing a preference for a particular candidate.)

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

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

(Signed) _____

SEC. 23. Section 6139 of the Elections Code is amended to read:

6139. Nomination papers for candidates for delegates shall be signed by voters registered as affiliated with the American Independent Party equal in number to not less than 1 percent of the number of persons registered as members of the American Independent Party as reflected in the report of registration issued by the Secretary of State in January of the year of the presidential primary election.

SEC. 24. Section 6142 of the Elections Code is amended to read:

6142. Each signer of a nomination paper for the presidential primary ballot may sign only one paper. He shall declare his intention to support the presidential preference candidate or the group of candidates for delegates, add his place of residence, and *give his street and number if any.*

SEC. 25. Section 6144 of the Elections Code is amended to read:

6144. Each section shall be prepared with the lines for signatures numbered, and shall have attached the affidavit of the circulator who obtained signatures to it, stating, under penalty of perjury, that all the signatures to the attached section were made in his presence, and that to the best of his 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.

SEC. 26. Section 6146 of the Elections Code is amended to read:

6146. The nomination paper for a candidate for the presidential preference portion of the ballot shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF PRESIDENTIAL PREFERENCE PRIMARY CANDIDATE

Section _____ Page _____

County of _____. Nomination paper of a presidential preference candidate for the American Independent Party 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 American Independent Party. I hereby nominate _____ for the presidential preference portion of the American Independent Party's presidential primary ballot, to be voted for at the presidential primary to be held on the _____ day of _____, 19__. I have not signed the nomination paper of any other candidate for the same office, or for any group of delegates, to the national convention of the party, and I further declare that I intend to support the candidate named herein.

Number	Signature	Printed name	Residence
1			
2			
3			
etc.			

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of a candidate in the presidential preference primary of the American Independent Party; that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence, that the signatures were obtained between _____, 19__ and _____, 19__, 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.

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

(Signed) _____
Circulator

SEC. 27. Section 6147 of the Elections Code is amended to read:

6147. The nomination paper for a group of candidates for delegates, to the national convention shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF GROUP OF CANDIDATES FOR DELEGATES TO NATIONAL CONVENTION

Section _____ Page _____

County of _____. Nomination paper of group of candidates for election as delegates by the American Independent Party pledged to the candidacy of _____ as presidential nominee or expressing no preference, as the case may be.

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 American Independent Party. I hereby nominate the following:

Number	Names	Residence city or town	County
1			
2			
3			

(to such number as may be required) etc., as candidates for delegates to the American Independent Party's National Convention, to be voted for at the presidential primary to be held on the _____ day of _____, 19__. I have not signed the nomination paper of any other candidates for the same office, or of any candidate for the presidential preference portion of the primary ballot, and I further declare that I intend to support for nomination the candidates named herein.

Number	Signature	Printed name	Residence
1			
2			
3			
etc.			

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of the group of candidates named in the signer's statement above as candidates for nomination and election by the American Independent Party as delegates to represent the State of California in the party's next national convention; that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence, that the signatures were obtained between _____, 19__ and _____, 19__, 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.

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

(Signed)_____
Circulator

SEC. 28. Section 6148 of the Elections Code is amended to read:

6148. Either a candidate, or his duly authorized representative, or a committee organized to form a group of candidates for

delegates, or its duly authorized representatives, may arrange for the appointment of circulators to serve within the county in which the circulators reside in securing signatures to the nomination paper of the candidate or group of candidates. The circulators thus appointed are the duly authorized circulators to secure signatures to the nomination paper of the candidate or group of candidates in that county. The form on which the circulators are appointed shall be filed with the county clerk of the county in which the circulators reside, at or before the time the nomination paper of the candidate or group of candidates is left with the county clerk for examination. Additional circulators may be appointed in the same manner as the original circulators were appointed.

SEC. 29. Section 6149 of the Elections Code is amended to read:

6149. The circulators may be appointed by the candidate, or his duly authorized representative, on a form which shall be substantially as follows:

APPOINTMENT OF CIRCULATORS BY CANDIDATE, OR HIS DULY AUTHORIZED REPRESENTATIVE

I, the undersigned candidate for the presidential preference primary of the American Independent Party (or duly authorized representative of _____), do hereby appoint the following voters of the County of _____ as circulators to obtain signatures, in that county, to nomination papers placing _____ in nomination for the presidential preference primary.

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
etc.	etc.

CANDIDATE OR DULY AUTHORIZED REPRESENTATIVE

(Signed) _____
Name Residence

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

_____
County Clerk

By _____
Deputy

SEC. 30. Section 6150 of the Elections Code is amended to read:

6150. The circulators may be appointed by the committee, or its duly authorized representatives, on a form which shall be

substantially as follows:

APPOINTMENT OF CIRCULATORS BY COMMITTEE, OR ITS DULY AUTHORIZED REPRESENTATIVES

We, the undersigned, members of the _____ committee (or duly authorized representatives of the _____ committee), do hereby appoint the following voters of the County of _____ as circulators to obtain signatures, in that county, to nomination papers placing in nomination as a group of candidates for election as delegates to represent the State of California in the next national convention of the American Independent Party that group of candidates organized by us (by the committee of which we are duly authorized representatives):

CIRCULATORS

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

SEC. 31. Section 6151 of the Elections Code is amended to read:

6151. Circulators may obtain signatures to the nomination paper of the candidate or group of candidates for whom they were appointed, at any time not more than 104 nor less than 74 days prior to the presidential primary.

SEC. 32. Section 6152 of the Elections Code is amended to read:

6152. A county clerk or deputy county clerk may not be appointed as a circulator; and circulators may not obtain signatures within 100 feet of any election booth or polling place.

SEC. 33. Section 6153 of the Elections Code is amended to read:

6153. Each section of a nomination paper, after being verified, shall be returned to the candidate, committee, or duly authorized

representatives, by whom the circulator was appointed. All the sections circulated in any county shall be collected by the candidate, committee, or duly authorized representatives, who shall arrange and leave the sections with the county clerk for examination.

SEC. 34. Section 6160 of the Elections Code is amended to read:

6160. At least 59 days before a presidential primary, the Secretary of State shall transmit to each county clerk a certified list containing the names and addresses of the candidates for delegates for whom nomination papers have been filed and who are entitled to be voted for at the presidential primary.

The certified list shall be in substantially the following form:

CERTIFIED LIST OF CANDIDATES FOR DELEGATE

SECRETARY OF STATE

To the County Clerk of _____ County:

I, _____, Secretary of State, do hereby certify that the following list contains the name and post office address of each person for whom nomination papers have been filed in my office and who is entitled to be voted for at the presidential primary to be held on the _____ day of _____, 19__, as delegate to the next national convention of the American Independent Party; I further certify that in the list, under the name of the person for whom a preference as nominee of the American Independent Party for President has been expressed, or under the name of the chairman of a group not expressing a preference, there is stated the name of each candidate for delegate who has filed a statement pursuant to Section 6138, and who may be voted for as one of a group.

LIST OF CANDIDATES

American Independent Party

Candidates preferring	Candidates preferring	No preference (Name of chairman)
Name Address	Name Address	Name Address
Top of group	Top of group	Top of group
1. _____	1. _____	1. _____
2. _____	2. _____	2. _____
3. _____	3. _____	3. _____
etc.	etc.	etc.

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

_____

(SEAL) Secretary of State

SEC. 35. Section 6170 of the Elections Code is amended to read:

6170. For the presidential primary election, the format of the American Independent Party ballot shall be governed by the provisions of Chapter 2 (commencing with Section 10200) of Division 7, with the following exceptions:

(a) In place of the heading "Delegates to National Convention, vote for one group only" shall appear the heading "Presidential Preference, vote for one".

(b) Selected and unselected presidential candidates shall be listed below the heading specified in subdivision (a).

(c) Below the presidential candidates shall appear in the same column, or in the next column if there is not sufficient space in the first column, the heading "Delegates to National Convention, vote for one group."

(d) The instructions to voters shall be the same as provided for in Chapter 2 (commencing with Section 10200) of Division 7 except that they shall begin with the words, "To express your preference for a candidate for nomination for President, stamp a cross (+) in the square opposite the name of the candidate. Your vote in this portion of the ballot is advisory only. Delegates to the national convention will be elected in the delegate selection portion of the ballot."

SEC. 36. Section 6190 of the Elections Code is amended to read:

6190. The Secretary of State shall, not later than the 24th 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 group the total of the votes received, the votes received in each county, and the names of the candidates comprising that group.

SEC. 37. Section 6192 of the Elections Code is repealed.

SEC. 38. Section 6200 of the Elections Code is amended to read:

6200. The provisions of this chapter shall be applicable to the presidential primary ballot of the Peace and Freedom Party only.

SEC. 39. Section 6201 of the Elections Code is repealed.

SEC. 40. Section 6226 of the Elections Code is repealed.

SEC. 41. Section 6230 of the Elections Code is amended to read:

6230. Any five or more voters of the state who are registered as affiliated with the Peace and Freedom Party may join as a committee in proposing the nomination of a group of candidates for delegates. The committee may elect its officers, select the candidates for delegates, select the chairperson of the committee, appoint circulators, secure the endorsement of the person, if any, preferred by the committee as candidate for presidential nominee, appoint alternates, assemble and file all necessary papers, and take all other action which may be necessary for the organization and election of the group. The committee in performing its functions may act through its officers or designated representatives.

SEC. 42. Section 6242 of the Elections Code is amended to read:

6242. Each signer of a nomination paper for the presidential primary ballot may sign only one such paper. The signer shall add her

or his printed name and place of residence indicating city and giving the street and number if such exists.

SEC. 43. Section 6244 of the Elections Code is amended to read:

6244. Each section shall be prepared with the lines for signatures numbered, and shall have attached the declaration of the circulator who obtained signatures to it, stating, under penalty of perjury, that she or he is a voter registered as affiliated with the Peace and Freedom Party, that all the signatures to the attached section were made in her or his presence, and that to the best of her or his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be. No other declaration is required.

SEC. 44. Section 6246 of the Elections Code is amended to read:

6246. The nomination paper for a candidate for the presidential preference portion of the ballot shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF PRESIDENTIAL PREFERENCE PRIMARY CANDIDATE

Section_____Page_____
County of_____.

Nomination paper of a presidential preference candidate for the Peace and Freedom Party 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 affiliated with the Peace and Freedom Party. I hereby nominate _____ for the presidential preference portion of the Peace and Freedom Party's presidential primary ballot, to be voted for at the presidential primary to be held on the _____day of June, 19__. I have not signed the nomination paper of any other candidate for the same office, or for any group of delegates to the national convention of the _____ Party, with which the Peace and Freedom Party of California is affiliated on the national level.

Number	Signature	Printed name	Residence street address /city
1.			
2.			
3.			
etc.			

CIRCULATOR'S DECLARATION

I, _____, affirm that I am a voter registered as affiliated with the Peace and Freedom Party in _____ County, that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of a candidate in the presidential preference primary of the Peace and Freedom Party, that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence that the signatures were obtained between _____ 19__ and _____ 19__, 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.

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

Executed at _____, California, this _____ day of _____, 19__.

(Signed) _____
Circulator

(Printed name) _____

SEC. 45. Section 6247 of the Elections Code is amended to read:

6247. The nomination paper for a group of candidates for delegates to the national convention shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF GROUP OF CANDIDATES FOR DELEGATES TO NATIONAL CONVENTION

Section _____ Page _____
County of _____.

Nomination paper of group of candidates for election as delegates by the Peace and Freedom Party pledged to the candidacy of _____ as presidential nominee or expressing no preference, as the case may be.

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 affiliated with the Peace and Freedom Party. I hereby nominate the following;

Number	Names	Residence city or town	County
1.			
2.			
3.			
etc.			

(to such number as may be required) as candidates for delegate to the national convention of the _____ Party, with which the Peace and Freedom Party of California is affiliated on the national level, to be voted for at the presidential primary to be held on the _____ day of June, 19__. I have not signed the nomination paper of any other group of candidates for delegates to the national convention or of any candidate for the presidential preference portion of the primary ballot.

Number	Signature	Printed name	Residence street address /city
1.			
2.			
3.			
etc.			

CIRCULATOR'S DECLARATION

I, _____, affirm that I am a voter registered as affiliated with the Peace and Freedom Party in _____ County, that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of the group of candidates named in the signer's statement above as candidates for nomination and election by the Peace and Freedom Party as delegates to represent the Peace and Freedom Party of California in the _____ Party's next national convention, that all the signatures on this section of the

nomination paper numbered from 1 to _____, inclusive, were made in my presence, that the signatures were obtained between _____ 19__, and _____ 19__, 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.

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

Executed at _____, California, this _____ day of _____, 19__.

(Signed) _____
Circulator

(Printed name) _____

SEC. 46. Section 6248 of the Elections Code is amended to read:

6248. Either a candidate or the candidate's duly authorized representative, or a committee organized to form a group of candidates for delegates, or its duly authorized representatives, may appoint circulators to serve in any county of the state in securing signatures to the nomination paper of the candidate or group of candidates. The form on which the circulators are appointed shall be filed with the county clerk of each county in which the circulators secure signatures, at or before the time the nomination paper of the candidate or group of candidates is left with the county clerk for examination. Additional circulators may be appointed in the same manner as the original verification deputies were appointed.

SEC. 47. Section 6249 of the Elections Code is amended to read:

6249. The circulators may be appointed by the candidate or the candidate's authorized representative on a form which shall be substantially as follows:

APPOINTMENT OF CIRCULATORS BY CANDIDATE OR BY CANDIDATE'S DULY AUTHORIZED REPRESENTATIVE

I, the undersigned candidate for the presidential preference primary of the Peace and Freedom Party (or duly authorized representative of _____), do hereby appoint the following voters registered as affiliated with the Peace and Freedom Party, as circulators to obtain signatures to nomination papers placing _____ in nomination for the presidential preference primary.

CIRCULATORS

Name	Residence	County
_____	_____	_____
_____	_____	_____
_____	_____	_____
etc.	etc.	etc.

CANDIDATE OR DULY AUTHORIZED REPRESENTATIVE

(Signed) _____ _____
Name Residence

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

_____
County Clerk

By _____
Deputy

SEC. 48. Section 6250 of the Elections Code is amended to read:

6250. The circulators may be appointed by the committee, or its duly authorized representatives, on a form which shall be substantially as follows:

APPOINTMENT OF CIRCULATORS BY COMMITTEE OR ITS DULY AUTHORIZED REPRESENTATIVES

We, the undersigned, members of the _____ committee (or duly authorized representatives of the _____ committee), do hereby appoint the following voters registered as affiliated with the Peace and Freedom Party as circulators to obtain signatures to nomination papers for that group of candidates for election as delegates organized by us (or by the committee of which we are duly authorized representatives) to represent the Peace and Freedom Party of California in the _____ Party's next national convention:

CIRCULATORS

Name	Residence	County
_____	_____	_____
_____	_____	_____
_____	_____	_____
etc	etc.	etc.

COMMITTEE OR ITS DULY AUTHORIZED REPRESENTATIVES

(Signed) _____ _____
Name Residence

(Signed) _____ _____
Name Residence

(Signed) _____ _____
Name Residence

etc etc

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

_____
County Clerk

By _____
Deputy

SEC. 49. Section 6251 of the Elections Code is amended to read:

6251. Circulators may obtain signatures to the nomination paper of the candidate or group of candidates for whom they were appointed, at any time not more than 104 nor less than 74 days prior to the presidential primary.

SEC. 50. Section 6271 of the Elections Code is amended to read:

6271. For the presidential primary election, the format of the Peace and Freedom Party ballot shall be governed by the provisions of Chapter 2 (commencing with Section 10200) of Division 7 of this code, with the following exceptions:

(a) In place of the heading "Delegates to National Convention, vote for one group only" shall appear the heading "Presidential Preference, vote for one."

(b) Selected and unselected presidential candidates shall be listed below the heading specified in subdivision (a).

(c) Below the presidential candidates shall appear in the same column, or in the next column if there is not sufficient space in the first column, the heading "Delegates to National Convention, vote for one group".

(d) Presidential candidates who have qualified for the ballot and to whom delegations are pledged, and the chairpersons of unpledged delegations which have qualified for the ballot, shall be listed below the heading specified in subdivision (c).

(e) The instructions to voters shall be the same as provided for in Chapter 2 of Division 7 of this code except that they shall begin with the words, "To express your preference for a candidate for nomination for President, stamp a cross (+) in the square opposite the name of the candidate. Your vote in this portion of the ballot is advisory only. Delegates to the national convention will be elected in the delegate selection portion of the ballot.

SEC. 51. Section 6288 of the Elections Code is amended to read:

6288. The Secretary of State shall, not later than the 24th day after the election, file in her or his office a statement of the canvassed returns for the Peace and Freedom Party presidential preferential primary and the national convention delegate selection election, compiled from the returns filed with the Secretary of State by the county clerks. The compiled statement shall show, for each candidate or group, the total of the votes received, the votes received in each county, and, in the case of a group, the names of the candidates comprising that group.

SEC. 52. Section 6302 of the Elections Code is repealed.

SEC. 53. Section 6336 of the Elections Code is amended to read:

6336. Each section shall be prepared with the lines for signatures numbered, and shall have attached the affidavit of the circulator 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 circulator shall be verified free of charge by any officer authorized to administer oaths.

SEC. 54. Section 6338 of the Elections Code is amended to read:

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	Printed name	Signature	Residence
1			
2			
3			
etc.			

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator 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. The signatures were obtained between _____ 19__ and _____ 19__.

(Signed) _____
Circulator

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

_____
(SEAL) Notary Public (or other official)

SEC. 55. The heading of Article 7 (commencing with Section 6340) of Chapter 4 of Division 5 of the Elections Code is amended to read:

Article 7. Circulators

SEC. 56. Section 6340 of the Elections Code is amended to read:

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

SEC. 57. Section 6341 of the Elections Code is amended to read:

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

APPOINTMENT OF CIRCULATORS 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 circulators to obtain signatures, in that county, to nomination papers for the qualification of a candidate or uncommitted delegation for presidential primary ballot.

CIRCULATORS

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

SEC. 58. Section 6342 of the Elections Code is amended to read:

6342. Circulators may obtain signatures to the nomination paper for which they were appointed, at any time not before February 1 nor after 74 days prior to the presidential primary.

SEC. 59. Section 6343 of the Elections Code is amended to read:

6343. A county clerk or a deputy county clerk may not be appointed as a circulator; and circulators may not obtain signatures within 100 feet of any election booth or polling place.

SEC. 60. Section 6345 of the Elections Code is amended to read:

6345. Each section of a nomination paper, after being verified, shall be returned by the circulator who circulated it to the steering committee, or to its duly authorized representatives, by whom the circulator 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.

SEC. 60.5. Chapter 5 (commencing with Section 6400) of Division 5 of the Elections Code is repealed.

SEC. 61. Chapter 5 (commencing with Section 6400) is added to Division 5 of the Elections Code, to read:

CHAPTER 5. DIRECT PRIMARY

Article 1. General Provisions

6400. This chapter does not apply to:

(a) Recall elections.

(b) Presidential primary.

(c) Nomination of officers of cities or counties whose charters provide a system for nominating candidates for such offices.

(d) Nomination of officers for any district not formed for municipal purposes.

(e) Nomination of officers for general law cities.

(f) Nomination of school district officers.

6401. No declaration of candidacy for a partisan office or for membership on a county central committee shall be filed, either by the candidate himself or by sponsors on his behalf, (1) unless at the time of presentation of the declaration and continuously for not less than three months immediately prior to that time, or for as long as he has been eligible to register to vote in the state, the candidate is shown by his affidavit of registration to be affiliated with the political party the nomination of which he seeks, and (2) the candidate has not been registered as affiliated with a qualified political party other than that political party the nomination of which he seeks within 12 months immediately prior to the filing of the declaration.

The county clerk shall attach a certificate to the declaration of candidacy showing the date on which the candidate registered as intending to affiliate with the political party the nomination of which he seeks, and indicating that the candidate has not been affiliated with any other qualified political party for the 12-month period immediately preceding the filing of the declaration. The provisions of this section shall not apply to declarations of candidacy filed by a candidate of a political party participating in its first direct primary election subsequent to its qualification as a political party pursuant to the provisions of Section 6430.

6401.5. If a candidate is a candidate for a nonpartisan office, all reference to party affiliation shall be omitted on all forms required to be filed.

6402. This chapter does not prohibit the independent nomination of candidates under the provisions of Chapter 6 (commencing at Section 6800) of this division, subject to the following limitations:

(a) A candidate whose name has been on the ballot as a candidate of a party at the direct primary and who has been defeated for that party nomination is ineligible for nomination as an independent candidate. He is also ineligible as a candidate named by a party central committee to fill a vacancy on the ballot for a general election.

(b) No person may file nomination papers for a party nomination and an independent nomination for the same office, or for more than one office at the same election.

Article 2. Qualified Parties

6430. A party is qualified to participate in any primary election:

(a) If at the last preceding gubernatorial election there was polled for any one of its candidates for any office voted on throughout the state, at least 2 percent of the entire vote of the state; or

(b) If on or before the 135th day before any primary election, it appears to the Secretary of State, as a result of examining and totaling the statement of voters and their political affiliations transmitted to him by the county clerks, that voters equal in number to at least 1 percent of the entire vote of the state at the last preceding

gubernatorial election have declared their intention to affiliate with that party; or

(c) If on or before the 135th day before any primary election, there is filed with the Secretary of State a petition signed by voters, equal in number to at least 10 percent of the entire vote of the state at the last preceding gubernatorial election, declaring that they represent a proposed party, the name of which shall be stated in the petition, which proposed party those voters desire to have participate in that primary election. This petition shall be circulated, signed, verified and the signatures of the voters on it shall be certified to and transmitted to the Secretary of State by the county clerks substantially as provided for initiative petitions. Each page of the petition shall bear a caption in 18-point blackface type, which caption shall be the name of the proposed party followed by the words "Petition to participate in the primary election." No voters or organization of voters shall assume a party name or designation which is so similar to the name of an existing party as to mislead voters.

6430.5. Whenever the registration of any party which qualified in the previous direct primary election falls below one-fifteenth of 1 percent of the total state registration, that party shall not be qualified to participate in the primary election but shall be deemed to have been abandoned by the voters. The Secretary of State shall immediately remove the name of the party from any list, notice, ballot, or other publication containing the names of the parties qualified to participate in the primary election.

6431. No party shall be recognized or qualified to participate in any primary election which either directly or indirectly carries on, advocates, teaches, justifies, aids, or abets the overthrow by any unlawful means of, or which directly or indirectly carries on, advocates, teaches, justifies, aids, or abets a program of sabotage, force and violence, sedition or treason against, the government of the United States or of this state.

6432. Not less than 123 days before a primary election, the Secretary of State shall, with the advice and consent of the Attorney General, determine which parties are disqualified to participate in any primary election under Section 6431. If it is proposed to disqualify a party which was qualified to participate in the next preceding direct primary, notice of intention to disqualify shall be served by registered mail on the chairman of the state central committee of the party, as shown by the records of the Secretary of State. In any event, notice of intention to disqualify shall be given in each county of the state by publication pursuant to Section 6061 of the Government Code. If there is no newspaper of general circulation printed and published in any county, publication shall be made in a newspaper of general circulation printed and published in an adjoining county.

If the party desires a hearing on the notice of intention to disqualify, it shall, within 10 days after service by mail or within 10

days after the last date upon which the notice was published in any county, whichever is later, file an affidavit in the Supreme Court under Section 6403 of this code setting forth facts showing that the political party is not disqualified to participate in any primary election under Section 6431. If the party does not file the affidavit within the time specified, the notice of intention to disqualify shall constitute final disqualification. Before the affidavit is filed, a copy shall be personally served on the Secretary of State. When filed, the matter shall be set for return in not more than 10 days and shall have priority over any other pending cases.

In connection with proceedings in the Supreme Court under this section, the Legislature hereby declares its intent to create a speedy and expeditious method for judicial determination of the vital questions involved, and urges the Supreme Court to accept jurisdiction in any such proceeding. The Legislature further urges that the court instruct any referee before whom the taking of evidence is ordered to report back to the court in sufficient time so that the court's final order may be made effective on or before the 80th day before the primary election.

Article 3. Notices of Registration and Offices to Be Filled

6460. A statement of the number of voters in his county at the close of registration on the 19th day prior to the transmission of such statement shall be transmitted to the Secretary of State by each county clerk at the following times:

(a) On the 135th day before each presidential primary and before each statewide primary election.

(b) On the 35th day before each statewide election.

The statement shall show the total number of voters in the county, the number registered as affiliated with each political party, political body, and the number who declined to state a party affiliation.

The statement shall also show the number of voters, by party affiliations, in each city, Assembly district, senatorial district, supervisorial district, and congressional district located in whole or in part within the county.

The Secretary of State, on the basis of the statements transmitted to him by the county clerks, and within 30 days after receiving such statements, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each county, city, Assembly district, senatorial district, congressional district, and supervisorial district in the state. A copy of this list shall be made available, upon request, to any elector of this state.

6461. Statements of the number of voters transmitted by the county clerks to the Secretary of State shall be in substantially the following form:

STATEMENT OF REGISTRATION

To the Secretary of State
Sacramento, California

I, _____, County Clerk (registrar of voters) of the County of _____, do hereby certify that the number of voters, in this county on the _____ day of _____, 19__, under the political affiliations hereinafter stated, is as follows:

(Name)	(Number)

That the number of electors registered in this county on that date who declined to declare a party affiliation was _____.

That the total number of electors registered in this county on that date was _____.

That the number of voters in each city in the county on that date, under the political affiliations hereinafter stated, is as follows:

(_____ Party)

(Name of city)	(Number)

(_____ Party)

(Name of city)	(Number)

That the number of voters in each Assembly district in the county on that date, under the political affiliations hereinafter stated, is as follows:

(_____ Party)

(District)	(Number)

That the number of voters in each senatorial district in the county on that date, under the political affiliations hereinafter stated, is as follows:

(_____ Party)

(District)	(Number)

(_____ Party)

(District)	(Number)

That the number of voters in each congressional district in the county on that date, under the political affiliations hereinafter stated, is as follows:

(_____Party)

(District)	(Number)

_____ Party

(District)	(Number)

That the number of voters in each supervisorial district in the county on that date, under the political affiliations hereinafter stated, is as follows:

(_____ Party)

(District)	(Number)

(_____ Party)

(District)	(Number)
_____	_____
_____	_____
_____	_____

Dated this _____ day of _____, 19__.

_____
County clerk

(SEAL) By_____

6462. At least 104 days before the time of holding the direct primary, the Secretary of State shall prepare and transmit to each county clerk a notice in writing designating all the offices, except those of county officers and judges of inferior courts, for which candidates are to be nominated at the primary, together with the names of parties qualified to participate in the primary.

6463. The notice designating the offices for which candidates are to be nominated shall be in substantially the following form:

NOTICE BY SECRETARY OF STATE OF OFFICES FOR WHICH CANDIDATES ARE TO BE NOMINATED AT THE DIRECT PRIMARY AND NAMES OF POLITICAL PARTIES QUALIFIED TO PARTICIPATE

Secretary of State
Sacramento, _____, 19__

To the County Clerk (registrar of voters) of the County of _____:

Notice is hereby given that the offices for which candidates are to be nominated at the primary election to be held on the _____ day of _____, 19__, together with the names of the political parties qualified to participate in the election, are as follows:

STATE AND DISTRICT OFFICES

_____
_____
_____

CONGRESSIONAL OFFICES

_____
_____
_____

LEGISLATIVE OFFICES

_____
_____
_____

That the names of the political parties qualified to participate in this election for nomination of candidates for each of the

above-mentioned offices are as follows:

_____

_____

_____

Notice is also hereby given that at the primary election candidates are to be nominated for the following offices:

JUDICIAL OFFICES

_____

_____

_____

SUPERINTENDENT OF PUBLIC INSTRUCTION

_____

_____

_____

Notice is also hereby given that at the primary election, in the county first above mentioned, candidates are to be nominated for any county offices or inferior court offices to which candidates are to be elected at the ensuing general election;

And notice is also hereby given that at the primary election there shall be elected in each county a county central committee for each political party above named pursuant to Division 6 (commencing with Section 8000).

_____

(SEAL) Secretary of State

6464. Within 10 days after receipt of the notice designating the offices for which candidates are to be nominated, the county clerk shall publish in the county so much of the notice as may be applicable to his county. The publication shall be pursuant to Section 6066 of the Government Code and shall include a statement of the offices of judges of inferior courts in the county for which candidates are to be nominated and a statement of the number of members of the county central committee to be elected by each political party in each supervisorial or Assembly district, as the case may be.

6465. The notice published by the county clerk designating the offices for which candidates are to be nominated shall be in substantially the following form:

NOTICE BY COUNTY CLERK OF OFFICES FOR WHICH CANDIDATES ARE TO BE NOMINATED OR ELECTED AT THE DIRECT PRIMARY AND NAMES OF POLITICAL PARTIES QUALIFIED TO PARTICIPATE

Notice is hereby given that offices for which candidates are to be nominated at the primary election to be held on the _____ day of _____, 19__, together with the names of the political parties qualified to participate in the election are as follows:

STATE (AND DISTRICT) OFFICES

_____

_____

_____

CONGRESSIONAL OFFICES

_____

_____

_____

LEGISLATIVE OFFICES

_____

_____

_____

That the names of the political parties qualified to participate in the election for nomination of candidates for each of the above-mentioned offices are as follows:

_____

_____

_____

Notice is also hereby given that at the primary election candidates are to be nominated for the following nonpartisan offices:

JUDICIAL OFFICES

_____

_____

_____

SCHOOL OFFICES

_____

_____

_____

COUNTY OFFICES

_____

_____

_____

Notice is also hereby given that at the primary election there are to be elected by each of the parties hereinafter named in each of the districts hereinafter stated as many members of the county central committee of that party as is stated under the name of that party opposite the number of the district.

MEMBERS OF COUNTY CENTRAL COMMITTEE

The number of each district and the number of members to be elected by each party from the district being as hereinafter set forth:

_____ Party	_____ Party	_____ Party	_____ Party
___District ___members	___members	___members	___members
___District ___members	___members	___members	___members
___District ___members	___members	___members	___members
___District ___members	___members	___members	___members
___District ___members	___members	___members	___members

Dated this _____ day of _____, 19__.

_____, County Clerk

(SEAL) By _____, Deputy

6466. In the case of primary elections other than the direct primary, the city clerk or secretary of the legislative body of the political subdivision for which the primary election is to be held shall publish once the notice indicating the offices for which candidates are to be nominated. The publication shall be made not more than 40 and not less than 14 days before the primary election.

Article 4. Declaration of Candidacy

6489. For the purposes of this article, "nomination documents" means declaration of candidacy and nomination papers.

6490. No candidate's name shall be printed on the ballot to be used at the direct primary unless the following nomination documents are delivered for filing to the county clerk not less than 88 and not more than 113 days prior to the direct primary:

(a) Declaration of candidacy pursuant to Section 6491.

(b) Nomination papers signed by signers pursuant to Section 6494.

The county clerk shall not accept the nomination documents after 5 p.m. on the 88th day prior to the direct primary.

6490.1. Notwithstanding the provisions of Section 6490 or any other provision of the law, if nomination documents for an incumbent elective officer of a county are not delivered by 5 o'clock p.m. on the 88th day before the direct primary election, the voters shall have until 5 o'clock p.m. on the 83rd day before the election to nominate candidates other than the incumbent for such elective office.

6490.2. If only one candidate has declared or accepted a

candidacy for a partisan nomination at the direct primary election for all parties qualified to participate at that election, and that candidate dies after the last day prescribed for the delivery of nomination documents to the county clerk, as provided in Section 6490, and not less than 88 days before the election, any person qualified under the provisions of Section 6401 may circulate and deliver nomination documents for the office to the county clerk up to 5 o'clock p.m. on the 79th day prior to the election. In such case, the county clerk shall, immediately after receipt of such nomination documents, certify and transmit them to the Secretary of State in the manner specified in this article.

6491. The declaration of candidacy by a candidate shall be substantially as follows:

DECLARATION OF CANDIDACY

I hereby declare myself a _____ Party candidate for nomination to the office of _____ District Number _____ to be voted for at the primary election to be held _____, 19__, and declare the following to be true:

My name is _____.

I want my name and occupational designation to appear on the ballot as follows_____.

Addresses:

Residence _____

_____

Business _____

_____

Mailing _____

_____

Telephone numbers: Day _____ Evening _____

I meet the statutory and/or constitutional qualifications for this office (including but not limited to citizenship, residency, and party affiliation, if required).

I am at present an incumbent of the following public office (if any) _____.

If nominated, I will accept the nomination and not withdraw.

_____

Signature of candidate

State of California
County of _____ } ss.

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

_____

Notary Public (or other official)

Examined and certified by me this _____ day of _____, 19__.

_____

Registrar of Voters—County Clerk

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who negligently fails to file at the proper time and in the proper place any declaration of candidacy in his possession which is entitled to be filed under the provisions of the Elections Code (Elections Code Section 29200).

6493. A candidate who declares his or her candidacy shall have signers sign his or her nomination papers pursuant to this article.

6494. Signers shall certify to the qualifications of the candidate as follows:

NOMINATION PAPER

I, the undersigned signer for _____ for the _____ Party nomination to the office of _____, to be voted for at the primary election to be held on the _____ day of _____, 19__, hereby assert as follows:

My knowledge of _____ is sufficient to warrant my urging his election to the office of _____ and in my opinion he is fully qualified, mentally, morally, and physically for the office and should be elected to fill it. I am a qualified voter of _____ County and I am registered as affiliated with the _____ Party and am not at this time a signer of any other nomination paper of any other candidate for the above-named office, or in case there are several places to be filled in the above-named office, I have not signed more nomination papers than there are places to be filled in the above-named office. My residence is correctly set forth after my signature hereto:

Name _____

Residence _____

AFFIDAVIT OF THE CIRCULATOR

I, _____, solemnly swear (or affirm) that I have been appointed according to the provisions of Sections 6497 and 6498 of the Elections Code, as a circulator to secure signatures in the County of _____ to the nomination paper of _____ as a candidate for the nomination of the _____ Party for the office of _____; that the signatures were obtained between _____, 19__ and _____ 19__; that all the signatures on this section of the nomination paper 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) _____

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

_____

(SEAL) Notary Public (or other official)

Examined and certified by me this _____ day of _____, 19__.

_____

Registrar of Voters—County Clerk

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who negligently fails to file at the proper time and in the proper place any nomination paper in his possession which is entitled to be filed under the provisions of the Elections Code. (Elections Code Section 29200)

6495. The number of signers to a nomination paper required for the respective offices are as follows:

(a) State office or United States Senate, not less than 65 nor more than 100.

(b) House of Representatives in Congress, State Senate or Assembly, Board of Equalization, or any office voted for in more than one county, and not statewide, not less than 40 nor more than 60.

(c) Candidacy in a single county or any political subdivision of a county, other than State Senate or Assembly, not less than 20 nor more than 30.

(d) When any political party has less than 50 voters in the state or in the county or district in which the election is to be held, one-tenth the number of voters of the party.

(e) When there are less than 150 voters in the county or district in which the election is to be held, not less than 10 nor more than 20.

6496. The nomination paper shall be delivered to the county clerk of the county in which the signer resides and is a voter.

6497. The county clerk shall not accept for filing any nomination paper unless all blanks in the certificate are filled.

The candidate may appoint circulators to serve, within the county in which they reside, for purposes of securing signatures to the candidate's nomination paper. Circulators appointed pursuant to this section shall be authorized to secure signatures to the nomination paper of the candidate in that county. The document in which the circulators are appointed by the candidate shall be filed with the county clerk on or before the date nomination papers are left with the county clerk for filing or examination.

6498. The document in which circulators are appointed by the candidate shall be in substantially the following form:

I, the undersigned, a candidate for the _____ Party nomination for the office of _____, which nomination is to be made by direct vote at a primary election to be held on the _____ day of _____, 19__, do hereby appoint the following voters of the County of _____, as circulators to obtain signatures of sponsors in that county to a nomination paper placing me in nomination as a candidate of the

_____ Party for the office of _____.

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
etc.	etc.

(Signature of candidate) _____

(Residence) _____

Filed in the office of the County Clerk (or registrar of voters) of the County of _____, this _____ day of _____, 19__.

_____

Registrar of Voters—County Clerk

6499. Circulators appointed pursuant to this article shall be voters in the district or political subdivision in which the candidate is to be voted on and shall serve only in that district or political subdivision.

6500. No more signers shall be secured for any candidate than the maximum number required in this article. If, however, through miscalculation or otherwise, more signers are secured than the maximum number, the officer with whom the nomination papers are filed shall, with the written consent of the candidate, withdraw the excess number.

6501. Signers shall be voters in the district or political subdivision in which the candidate is to be voted on and shall be affiliated with the party, if any, in which the nomination is proposed.

6502. No signer shall at the time of signing a certificate have his name signed to any other nomination paper for any other candidate for the same office, or, in case there are several places to be filled in the same office, signed to more nomination papers for candidates for that office than there are places to be filled.

6503. No defect in any nomination document presented shall prevent the filing of another nomination document within the period allowed for presenting the nomination document.

6504. No fee or charge shall be made or collected by any officer for verifying any nomination document or circulator's affidavit.

6505. The county clerk shall transmit to the Secretary of State the nomination document for each candidate for state office, United States Senator, Representative in Congress, Member of the State Senate or Assembly, judges of the superior court, or the members of the Board of Equalization.

6506. Before any nomination document is filed in the office of the county clerk or forwarded for filing in the office of the Secretary of State, the county clerk shall verify the signatures and the political affiliations of the signers on the nomination paper with the registration affidavits on file in the office of the county clerk. The

county clerk shall mark "not sufficient" any signature which does not appear in the same handwriting as appears on the affidavit of registration in his office or which is accompanied by a declaration of party affiliation which is not in accordance with the declaration of party affiliation in the affidavit of registration.

6507. All nomination documents which are required to be filed in the office of the Secretary of State shall, within five days after being left with the county clerk, be forwarded by him to the Secretary of State, who shall receive and file them. The county clerk shall forward with the nomination documents a statement showing the total number of signatures on the nomination document which have not been marked "not sufficient."

6508. The county clerk's statement to the Secretary of State of the number of signers shall be in substantially the following form:

COUNTY CLERK'S STATEMENT OF NUMBER OF SIGNERS

I, County Clerk (or registrar of voters) of the County of _____, hereby certify that I have examined the _____ hereto attached filed on behalf of _____, candidate for nomination to the office of _____ at the primary election to be held on the _____ day of _____, 19__, and that the total number of signatures which I have not marked "not sufficient" is _____.

Dated this _____ day of _____, 19__.

_____ County Clerk

(SEAL) By _____ Deputy

6509. All nomination documents which are not required by this chapter to be filed in the office of the Secretary of State shall be filed in the office of the county clerk on the 83rd day before the primary election.

6510. The officer with whom nomination documents are filed shall keep a record in which he shall enter the name of the candidate, the title of the office, the party, if any, and the time of filing.

Article 5. Nomination Papers. Place of Filing. Fees

6550. All nomination documents shall be filed as follows:

(a) For state offices, United States Senators, Representatives in Congress, Members of the State Senate and Assembly, judges of the superior court, and members of the Board of Equalization in the office of the Secretary of State.

(b) For all officers to be voted for wholly within one county, except as provided in subdivision (a) of this section, in the office of the county clerk of that county.

6551. All forms required for nomination and election to all congressional, state and county offices shall be furnished only by the county clerk. At the time of issuance of those forms the county clerk shall type in the forms the name of the candidate and the office for

which he is a candidate, shall imprint a stamp which reads "Official Filing Form," and shall affix his signature. The forms shall be distributed without charge to all candidates applying for them.

6552. The following fees for filing declarations of candidacy shall be paid to the Secretary of State by each candidate:

(a) Two percent of the first-year salary for the office of United States Senator or for any state office. The fee prescribed in this subdivision does not apply to the office of State Senator or Assemblyman or to an office to be voted for in a district comprising more than one county.

(b) One percent of the first-year salary for the office of Representative in Congress or for any office to be voted for in any district comprising more than one county, except the office of State Senator or Assemblyman.

(c) One percent of the first-year salary for the office of State Senator or Assemblyman.

6553. The filing fee required to be paid to the Secretary of State pursuant to subdivisions (a) and (b) of Section 6552 shall be paid to the county clerk at the time the forms for nomination are obtained from the county clerk. The filing fee required to be paid to the Secretary of State pursuant to subdivision (c) of Section 6552 shall be paid upon the filing of the candidate's declaration of his intention to become a candidate, pursuant to Section 25500, and such filing fee shall be nonrefundable. The county clerk shall not accept any papers unless the fees are paid at the time required by this section, or unless satisfactory evidence is given to the county clerk or to the registrar of voters that such fee has been paid at the time of the declaration of candidacy in another county. The county clerk shall transmit the fees to the Secretary of State at the time he delivers the declarations of candidacy for filing.

6554. A filing fee of ten dollars ($10) shall be paid to the county clerk for filing a declaration of candidacy for an office to be voted for wholly within one county with the following exceptions:

(a) No filing fee is required from any candidate for an office for which no fixed compensation is payable.

(b) No filing fee is required for offices the compensation for which does not exceed the sum of six hundred dollars ($600) annually.

(c) A filing fee of 1 percent of the annual salary of the office shall be paid to the county clerk by each candidate for a judicial office or for the office of district attorney.

(d) The filing fee to be paid to the county clerk by each candidate for a county office, other than a judicial office and the office of district attorney, shall be the same percentage of the annual salary of the office as that provided for in subdivision (a) of Section 6552 of this code. This subdivision shall not apply to any candidate for any office for which the annual salary is two thousand five hundred dollars ($2,500) or less.

6555. (a) Notwithstanding any other provision of this article, a candidate may submit a petition containing signatures of registered

voters in lieu of a filing fee as follows:

(1) For the office of California State Assembly, 1,500 signatures.

(2) For the office of California State Senate and the United States House of Representatives, 3,000 signatures.

(3) For candidates running for statewide office, 10,000 signatures.

(4) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he seeks nomination is 2,000 or more, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 10 percent of the total of registered voters in the district in which he seeks nomination, whichever is less.

(5) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he seeks nomination is less than 2,000, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 20 percent of the total of registered voters in the district in which he seeks nomination, whichever is less.

(6) Notwithstanding any other provision of this section, a candidate seeking the nomination of a qualified party with whom he is registered, the registered voters of which who were eligible to vote at the last statewide election constituted less than 5 percent of all registered voters eligible to vote at the last statewide election, may submit a petition containing signatures of 10 percent of the registered voters of that party in the district in which he seeks nomination, or 150 signatures, whichever is less.

(b) Each clerk shall furnish to each candidate, upon request, and without charge therefor, forms for securing signatures. Such forms shall be made available commencing 30 days before the first day for circulating nomination papers. No other form except the form furnished by the county clerk shall be used to secure signatures. The substitution of signatures for fees shall be subject to the following provisions:

(1) Any voter registered as affiliated with the same political party as a candidate for whom he is eligible to vote may sign the petition of that candidate, and any registered voter may sign the petition of a candidate, other than a candidate seeking the nomination of his party, for whom he is eligible to vote regardless of political party.

(2) No voter shall at the time of signing a petition in lieu of a filing fee have his name signed to any other petition for any other candidate for the same office, or, in case there is more than one place to be filled in the same office, signed to more petitions for candidates for that office than there are places to be filled.

(3) A candidate may submit the appropriate number of signatures to cover all or any pro rata portion of the filing fee.

(4) Upon receipt of signatures, the clerk shall issue nomination papers provisionally, subject to checking the validity of the signatures against the affidavits of registration on file in his office. In the event that upon checking, the number of valid signatures falls below the number required, the clerk shall notify the candidate of

the fact and shall accept any necessary signatures at any time prior to the close of the period for circulating nomination papers.

(5) If the petition is circulated for an office in more than one county, the candidate shall submit the signatures to the county clerk in the county in which the petition was circulated. The county clerk shall at least two days after verifying the signatures on the petition, notify the Secretary of State of the total number of valid signatures. If the number of signatures is insufficient, the Secretary of State shall notify the candidate and the county clerks of the fact. The candidate may submit the necessary number of valid signatures at any time prior to the close of the period for circulating nomination papers.

(6) Each candidate may submit a greater number of signatures to allow for subsequent losses due to invalidity of some signatures. The clerk shall not be required to determine the validity of a greater number of signatures than that required by this section.

6556. The county clerk shall pay to the county treasurer all fees received from candidates pursuant to Section 6554. Within 10 days after the direct primary, the Secretary of State shall pay to the State Treasurer all fees received from candidates pursuant to Section 6552, which shall be deposited in the General Fund.

It is the intention of the Legislature that the funds deposited in the General Fund pursuant to this section will be used to support the State Commission on Voting Machines and Vote Tabulating Devices to the extent that appropriations are made in the Budget Act from year to year.

Article 6. List of Candidates. Notice of Election

6580. At least 68 days before the direct primary, the Secretary of State shall transmit to each county clerk a certified list of candidates who are eligible to be voted for in his county at the direct primary.

6580.5. Not less than five days before he transmits the certified list of candidates to the county clerks, as provided in Section 6580, the Secretary of State shall notify each candidate for partisan office of the names, addresses, offices, occupations, and party affiliations of all other persons who have filed for the same office.

6581. The Secretary of State shall certify and transmit the list of candidates for nomination to each office according to Assembly districts, in the order of arrangement prescribed in Chapter 2 (commencing with Section 10200) of Division 7. In the case of each county containing more than one Assembly district, the Secretary of State shall transmit separate lists for each Assembly district.

6582. The Secretary of State, at the time he transmits the list of candidates to the county clerk, shall inform the county clerk of the address of each candidate.

6583. The certified list of candidates sent to each county clerk by the Secretary of State shall show:

(a) The name of each candidate.

(b) The office for which each person is a candidate.

(c) The party each person represents, unless the office is nonpartisan.

6584. The certified list of candidates sent to each county clerk by the Secretary of State shall be in substantially the following form:

CERTIFIED LIST OF CANDIDATES FOR NOMINATION

SECRETARY OF STATE

To the County Clerk of _____ County:

I, _____, Secretary of State, do hereby certify that the following list contains the name of each person for whom nomination papers have been filed in my office and who is entitled to be voted for in the above-named county at the direct primary election to be held on the _____ day of _____, 19__, the designation of the office for which each person is a candidate, his name being stated under the name of the party he represents, except in the case of a nonpartisan office.

_____ PARTY

STATE (AND DISTRICT) OFFICES

(Title of office)	(Name of candidate)
_____	_____
_____	_____
_____	_____

_____ District

CONGRESSIONAL OFFICES

(Including United States Senator, if any)

_____	_____
_____	_____

_____ District

LEGISLATIVE OFFICES

_____	_____
_____	_____

_____ District
_____ District
_____ PARTY

STATE (AND DISTRICT) OFFICES

I further certify the following list contains the name of each person for whom nomination papers have been filed in my office, together with a designation of the office for which each person is a candidate, and that such person is entitled to be voted for in your county and

that election by any registered qualified elector of your county whether registered as intending to affiliate with any political party or not.

NONPARTISAN OFFICES

JUDICIAL OFFICES

(Title of office)	(Name of candidate)
_____	_____
_____	_____
_____	_____

_____ District

SUPERINTENDENT OF PUBLIC INSTRUCTION

_____	_____
_____	_____

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

_____

Secretary of State

6585. Each county clerk shall, upon receipt of the certified list of candidates, publish under the proper party designation the title of each partisan office which appears on the list. The publication shall include the names and addresses of all persons for whom nomination papers have been filed with the Secretary of State for each of the offices, except the names of candidates for the State Senate and Assembly when they are to be voted for within more than one county, and the names of candidates for the county central committee, filed in the office of the county clerk. He shall also publish the title of each nonpartisan office, together with the names and addresses of all persons for whom nomination papers have been filed for each nonpartisan office, either in the office of the Secretary of State or in the office of the county clerk, and shall state that candidates for nonpartisan offices may be voted for at the primary election by any voter of the county, whether registered as intending to affiliate with any political party or not. He shall also publish the date of the primary election and the hours during which the polls will be open.

6586. In publishing the names and addresses of all candidates, the county clerk shall publish the names in the order in which they will appear upon the ballot in the Assembly district in the county, which is the lowest in numerical order.

6587. The list of candidates and notice of election published by the county clerk shall be in substantially the following form:

NOTICE BY COUNTY CLERK OF TIME AND PLACE OF PRIMARY ELECTION, POLITICAL PARTIES ENTITLED TO PARTICIPATE THEREIN, OFFICES FOR WHICH CANDIDATES ARE TO BE NOMINATED OR ELECTED, AND NAMES AND ADDRESSES OF CANDIDATES

Notice is hereby given that a primary election is to be held in the County of _____ on the _____ day of _____, 19__, and that hereinafter under the designation of each of the political parties entitled to participate therein there is stated the title of each office to be voted on, and the name and address of each person for whom a nomination paper has been filed for each office and who is entitled to be voted for in this county, the name of each person being stated under the name of the party or principle he represents.

_____ PARTY

STATE (AND DISTRICT) OFFICES

(Title of office)	(Name of candidate)	(Post office address of candidate)

_____ District

CONGRESSIONAL OFFICES

_____ District

LEGISLATIVE OFFICES

_____ District

MEMBERS OF COUNTY CENTRAL COMMITTEE

Member of County Central Committee _____ District. _____ to be elected.		

03612 288505 622

Member of County
Central Committee

_____

_____ District.
_____ to be elected.

_____ _____
_____ _____

_____ PARTY

STATE (AND DISTRICT) OFFICES

Notice is also hereby given that following are the nonpartisan offices for which candidates are to be nominated at the primary election, together with the names and addresses of all persons for whom nomination papers have been filed for each office, and that candidates for these offices may be voted for, at the primary election, by any voter of this county, whether registered as intending to affiliate with any political party or not.

NONPARTISAN OFFICES

JUDICIAL OFFICES

(Title of office)	(Name of candidate)	(Post office address of candidate)
	_____ District	

SCHOOL OFFICES

COUNTY OFFICES

	_____ Supervisor District	

Notice is also hereby given that at the primary election the polls will be open from the hour of 7 o'clock a.m. to the hour of 8 o'clock p.m. on the day thereof.

Dated this _____ day of _____, 19__.

_____ County Clerk

03612 288515 624

6588. The county clerk shall publish the list of candidates and notice of election once each week for two successive weeks prior to a direct primary election in not more than two newspapers of general circulation published in the county.

Article 7. Nominated Candidates

6610. The person who receives the highest number of votes at a primary election as the candidate of a political party for the nomination to an office is the nominee of that party at the ensuing general election.

6611. Any candidate for a nonpartisan office who at a primary election receives votes on a majority of all the ballots cast for candidates for that office shall be elected to such office. Where two or more candidates are to be elected to a given office and a greater number of candidates receive a majority than the number to be elected, those candidates shall be elected who secure the highest votes of those receiving such majority, and equal in number to the number to be elected.

Where a candidate has been elected to a nonpartisan office at the primary election, that office shall not appear on the ballot at the ensuing general election, notwithstanding the death, resignation or other disqualification of the candidate at a time subsequent to the primary election.

6612. If no candidate has been elected to a nonpartisan office pursuant to Section 6611 or if the number of candidates elected at the primary election is less than the total number to be elected to that office, then candidates for that office at the ensuing election shall be those candidates not elected at the primary who received the next highest number of votes cast for nomination to that office, equal in number to twice the number remaining to be elected to that office, or less, if the total number of candidates not elected is less.

6613. In the case of a tie vote, nonpartisan candidates receiving the same number of votes shall be candidates at the ensuing general election if they qualify pursuant to Section 6612 whether or not there are more candidates at the general election than prescribed by this article. In no case shall the candidates determine the tie by lot.

6614. If the number of candidates elected at a primary election to any nonpartisan office is less than the number of persons to be elected to that office, there shall be printed on the ballot, in a group, only the names of the other candidates receiving the next highest number of votes for nomination to that office as may equal twice the number of persons remaining to be elected to that office (or a smaller number if the list of candidates be exhausted). This group shall be preceded by the designation of the office and the words "vote for _____," the blank being filled by a number equal to the number of persons remaining to be elected to that office.

6614.5. The candidates for election to membership on the county central committee, equal in number to the number to be elected, receiving the highest number of votes in their supervisorial district or Assembly district, as the case may be, shall be declared elected.

6615. It is the duty of the officers charged with the canvass of the returns of any primary election in any county or city to issue:

(a) Certificates of election to each member elected to a county central committee.

(b) Certificates of nomination to candidates nominated for nonpartisan offices voted for wholly within one county.

6616. Certificates of nomination or election issued by county or municipal officers shall be issued immediately upon the completion of the canvass of the returns at the primary election.

6617. The Secretary of State shall issue certificates of nomination to candidates nominated for Representatives in Congress, Members of the State Senate and Assembly, members of the State Board of Equalization, and for all statewide offices.

6618. Not less than 62 days before the general election, the Secretary of State shall deliver to the county clerk of each county a certificate showing:

(a) The name of every person entitled to receive votes within that county at the general election who has received the nomination as a candidate for public office pursuant to the provisions of this chapter.

(b) For each nominee the name of the party which has nominated him, if any.

(c) The designation of the public office for which he has been nominated.

6619. The Secretary of State shall certify and transmit the list of candidates for each office according to Assembly districts, in the order of arrangement prescribed by Chapter 2 (commencing with Section 10200) of Division 7. In the case of each county containing more than one Assembly district, he shall transmit separate lists for each Assembly district.

6620. The certificate of the Secretary of State showing candidates nominated at a primary election shall be substantially in the following form:

CERTIFICATE OF SECRETARY OF STATE SHOWING CANDIDATES NOMINATED AT PRIMARY ELECTION

SECRETARY OF STATE

To the County Clerk of _____ County:

I, _____, Secretary of State, do hereby certify that hereinafter are stated the names of those persons entitled to receive votes within your county at the general election who have received nominations as candidates for office at the primary election. These nominations are evidenced by the compilation and statement required to be

made by me and filed in my office. Set opposite their respective names there is shown the candidate's designation of his office, profession, vocation or occupation, and there is also shown separately and respectively for each nominee the name of the political party or organization, if any, which has nominated him and the designation of the public office for which he is so nominated.

STATE (AND DISTRICT) OFFICES

(Name of candidate)	(Candidate's designation of office, occupation, etc.)	(Party)	(Office)

_____ District

CONGRESSIONAL OFFICES

_____ District

LEGISLATIVE OFFICES

_____ District

JUDICIAL OFFICES

(Name)	(Candidate's designation of office, occupation, etc.)	(Office)

_____ District

SUPERINTENDENT OF PUBLIC INSTRUCTION

I also certify that at the state conventions which met, according to law, at the State Capitol on the _____ day of _____, 19__, the

following persons were nominated as electors of President and Vice President of the United States, for the parties respectively hereinafter placed at the head of the column containing their respective names, and you are hereby directed to print the names of the candidates for President and Vice President for whom those electors have pledged themselves to vote, upon the official ballots to be used at the general election, as representing the candidates of their respective parties for that office.

PRESIDENTIAL ELECTORS

_____ Party	_____ Party
_____ President	_____ President
_____ Vice President	_____ Vice President
1 _____	1 _____
2 _____	2 _____
3 _____	3 _____
etc.	etc.

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

(SEAL) _____

Secretary of State

Article 8. Withdrawal of Candidates. Vacancies

6650. No candidate whose declaration of candidacy has been filed for any primary election may withdraw as a candidate at that primary election.

6651. No candidate nominated at any primary election may withdraw as a candidate at the ensuing general election except those candidates permitted to withdraw by this article.

6651.5. Any person nominated by a party at the direct primary election for a partisan office may be appointed to fill a vacancy on the general election ballot for any other partisan office, as provided in Section 6655, and in such case his appointment shall constitute a vacancy on the general election ballot for the office for which he was nominated. The vacancy thus arising shall be filled in the manner prescribed in Section 6655.

6652. A person who received the nomination to an office as a write-in candidate at a primary election, may withdraw his or her name as a candidate at the ensuing general election by signing a written statement at least 74 days before the election. The written statement must be filed in the office where the person would have had to file a declaration of candidacy if he or she had been a candidate for nomination. When this section has been complied with, the name of the write-in candidate shall not be printed on the ballot as a candidate for that office.

6653. No vacancy on the ballot for a general election shall be filled except by reason of the death of a candidate occurring at least

59 days before the date of the next ensuing general election.

6654. Whenever a candidate for nomination for a partisan office at a primary election dies on or before the day of the election, and a sufficient number of ballots are marked as being voted for him to entitle him to nomination if he had lived until after the election, a vacancy exists on the general election ballot which shall be filled in the manner provided in Section 6655 for filling a vacancy caused by the death of a candidate.

6655. Vacancies permitted to be filled may, in the case of legislative offices, be filled by the county central committee or committees of the party in which the vacancy occurs, in the county or counties comprising the legislative district of the deceased candidate. In the case of all other district or state offices requiring party nomination, except congressional offices, the vacancies may be filled by the state central committee of the party.

Vacancies permitted to be filled may, in the case of congressional offices, be filled by those members of the state central committee of the party, who reside in the congressional district in which the vacancy occurs, and who were registered to vote in that district at the time the vacancy occurred, acting together with the members of the county central committee or committees of the party residing in that congressional district.

References in this section to state and county central committees shall be construed to refer to the newly elected or selected state and county central committees, unless the organizational meetings of such committees are held in January following the general election.

6656. If the vacancy occurs among candidates chosen at the direct primary to go on the ballot for the succeeding general election for a nonpartisan office, the name of that candidate receiving at the primary election the next highest number of votes shall go upon the ballot to fill the vacancy.

6657. A vacancy authorized to be filled because of the death of a candidate shall be filled, and the name of the person named to fill the vacancy shall be certified to the officer charged with the duty of printing the ballots, 59 days before the day of election.

6658. Whenever a candidate has declared a candidacy for a primary election, the candidate's name shall be printed upon the ballot for the primary election, unless the candidate has died and that fact has been ascertained by the officer charged with the duty of printing the ballot, at least 59 days before the day of the election.

6659. Whenever a candidate has been nominated at any primary election after having a declaration of candidacy filed, the name of the candidate shall be printed upon the ballot for the ensuing general election unless the candidate has died and that fact has been ascertained by the officer charged with the duty of printing the ballots, at least 59 days before the day of election.

6660. Whenever, upon the death of any candidate, the vacancy created is filled by a party committee, a certificate to that effect shall be filed with the officer with whom a declaration of candidacy for

such office may be filed, and, upon payment of the filing fee applicable to the office, shall be accepted and acted upon by that officer as in the case of an original declaration certificate.

6661. No person whose name has been written in upon a ballot for an office at the direct primary may have his name placed upon the ballot as a candidate for that office for the ensuing general election unless one of the following statements is true:

(a) At that direct primary he received for that office votes equal in number to 1 percent of all votes cast for the office at the last preceding general election at which the office was filled.

(b) He is an independent nominee pursuant to Chapter 6 (commencing at Section 6800) of this division.

(c) He has been designated by a party central committee to fill a vacancy on the ballot for the general election.

SEC. 61.3. Section 6491 is added to the Elections Code, to read:

6491. The declaration of candidacy by a candidate shall be substantially as follows:

DECLARATION OF CANDIDACY

I hereby declare myself a _____ Party candidate for nomination to the office of _____ District Number _____ to be voted for at the primary election to be held _____, 19__, and declare the following to be true:

My name is _____.

I want my name and occupational designation to appear on the ballot as follows_____.

Addresses:

Residence _____

_____

Business _____

_____

Mailing _____

_____

Telephone numbers: Day _____ Evening _____

I meet the statutory and/or constitutional qualifications for this office (including but not limited to citizenship, residency, and party affiliation, if required).

I am at present an incumbent of the following public office (if any) _____.

If nominated, I will accept the nomination and not withdraw.

_____

Signature of candidate

State of California
County of _____ } ss.

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

_____
Notary Public (or other official)

Examined and certified by me this _____ day of _____, 19__.

_____
Registrar of Voters—County Clerk

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who negligently fails to file at the proper time and in the proper place any declaration of candidacy in his possession which is entitled to be filed under the provisions of the Elections Code Section 29302).

SEC. 61.4. Section 6494 is added to the Elections Code, to read:

6494. Signers shall certify to the qualifications of the candidate as follows:

NOMINATION PAPER

I, the undersigned signer for _____ for the _____ Party nomination to the office of _____, to be voted for at the primary election to be held on the _____ day of _____, 19__, hereby assert as follows:

My knowledge of _____ is sufficient to warrant my urging his election to the office of _____ and in my opinion he is fully qualified, mentally, morally, and physically for the office and should be elected to fill it. I am a qualified voter of _____ County and I am registered as affiliated with the _____ Party and am not at this time a signer of any other nomination paper of any other candidate for the above-named office, or in case there are several places to be filled in the above-named office, I have not signed more nomination papers than there are places to be filled in the above-named office. My residence is correctly set forth after my signature hereto:

Name _____

Residence _____

AFFIDAVIT OF THE CIRCULATOR

I, _____, solemnly swear (or affirm) that I have been appointed according to the provisions of Sections 6497.1 and 6498 of the Elections Code, as a circulator to secure signatures in the County of _____ to the nomination paper of _____ as a candidate for the nomination of the _____ Party for the office of _____; that the signatures were obtained between _____, 19__ and _____ 19__;

that all the signatures on this section of the nomination paper 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) _____

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

_____

(SEAL) Notary Public (or other official)

Examined and certified by me this _____ day of _____, 19__.

_____

Registrar of Voters—County Clerk

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who negligently fails to file at the proper time and in the proper place any nomination paper in his possession which is entitled to be filed under the provisions of the Elections Code. (Elections Code Section 29302)

SEC. 61.5. Section 6653.3 is added to the Elections Code, to read:

6653.3. Notwithstanding Section 6653 and 6659, any candidate who has been nominated at any primary election for superior court judge in which election there were at least two other candidates, and who has, after the date prescribed for the filing of declaration of candidacy and declaration of acceptance of nomination pursuant to Article 4 (commencing with Section 6489) of this chapter, been appointed to any federal or state office may request the county clerk to have his or her name removed from the ballot of the next ensuing general election. If such request is received by the county clerk at least 59 days before the next ensuing general election, the county clerk shall remove such candidate's name from the ballot.

If a candidate's name is removed from the ballot pursuant to this section, the two remaining candidates who received the highest number of votes cast on all the ballots of all the voters participating in the primary election for nomination for that office of superior court judge, shall be the candidates for that office at the ensuing general election, and their names as candidates for that office shall be placed on the official ballot at the ensuing election.

SEC. 62. Chapter 6 (commencing with Section 6800) of Division 5 of the Elections Code is repealed.

SEC. 63. Chapter 6 (commencing with Section 6800) is added to Division 5 of the Elections Code, to read:

CHAPTER 6. INDEPENDENT NOMINATIONS

Article 1. General Provisions

6800. A candidate for any public office, including that of presidential elector, for which no nonpartisan candidate has been nominated or elected at any primary election, may be nominated subsequent to or in lieu of a primary election pursuant to this chapter.

6801. A candidate for whom a nomination paper has been filed as a partisan candidate at a primary election, and who is defeated for his party nomination at the primary election, is ineligible for nomination as an independent candidate.

6802. For the purposes of this chapter, the provisions of Chapter 5 (commencing at Section 6400) of this division, so far as consistent with this chapter, shall apply to all offices for which nominations are made at the presidential primary and direct primary elections, as well as to elections for any other office to which Chapter 5 (commencing at Section 6400) of this division would not ordinarily apply.

6803. Whenever a group of candidates for presidential electors, equal in number to the number of presidential electors to which this state is entitled, files a nomination paper with the Secretary of State pursuant to this chapter, the nomination paper may contain the name of the candidate for President of the United States and the name of the candidate for Vice President of the United States for whom all of those candidates for presidential electors pledge themselves to vote.

6804. When a group of candidates for presidential electors designates the presidential and vice presidential candidates for whom all of the group pledge themselves to vote, the names of the presidential candidate and vice presidential candidate designated by that group shall be printed on the ballot pursuant to Chapter 2 (commencing with Section 10200) of Division 7.

Article 2. Nomination Papers

6830. Each candidate or group of candidates shall file a nomination paper which shall contain:

(a) The name and residence address of each candidate, including the name of the county in which he resides.

(b) A designation of the office for which the candidate or group seeks nomination.

(c) A statement that the candidate is not, and was not at any time during the one year preceding the immediately preceding primary election at which a candidate was nominated for the office mentioned in the nomination paper, registered as affiliated with a political party qualified under the provisions of Section 6430. The statement required by this subdivision shall be omitted when no

primary election was held to nominate candidates for the office to which the independent nomination paper is directed.

6831. Nomination papers for a statewide office for which the candidate is to be nominated shall be signed by voters of the state equal to not less in number than 1 percent of the entire number of registered voters of the state at the time of the close of registration prior to the preceding general election. Nomination papers for an office, other than a statewide office, shall be signed by the voters of the area for which the candidate is to be nominated, not less in number than 3 percent of the entire number of registered voters in the area at the time of the close of registration prior to the preceding general election. Nomination papers for Representative in Congress, State Senator or Assemblyman, to be voted for at a special election to fill a vacancy, shall be signed by voters in the district not less in number than 500 or 1 percent of the entire vote cast in the area at the preceding general election, whichever is less, nor more than 1,000.

6831.1. (a) Within 30 days from the date of receiving the nomination paper if, from the examination of such pursuant to Section 6831, more than 500 signatures have been signed on the nomination paper petition, the elections official may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. Such a random sampling shall include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is within 90 to 110 percent of the number of signatures of qualified voters needed to declare the nomination paper sufficient, the elections official shall examine and verify each signature filed.

(c) In determining from the records of registration, what number of valid signatures are signed on the nomination paper, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles is permitted by law.

(d) The elections official shall attach to the nomination paper, a certificate showing the result of this examination, and shall notify the candidate of either the sufficiency or insufficiency of the nomination paper.

(e) If the nomination paper is found insufficient, no action shall be taken on the nomination paper. However, the failure to secure sufficient signatures, shall not preclude the filing later of an entirely new nomination paper to the same effect.

(f) If the nomination paper is found to be sufficient, the elections official shall certify the results of the examination.

6832. When a nomination paper or sections of a nomination paper have been received which contain the number of signatures

required in Section 6831, the officer with whom those papers are required to be filed shall not receive or file additional sections of the nomination paper for the candidate named in it.

6833. Nomination papers required to be filed with the Secretary of State or with the county clerk shall be filed not more than 129 nor less than 64 days before the day of the election, but shall be prepared, circulated, signed, verified and left with the county clerk for examination, or for examination and filing, no earlier than 134 days before the election and no later than 5 p.m. 74 days before the election. If the total number of signatures submitted to a county clerk for an office entirely within that county does not equal the number of signatures needed to qualify the candidate, the county clerk shall declare the petition void and is not required to verify the signatures. If the district falls within two or more counties, the county clerk shall within two working days report in writing to the Secretary of State the total number of signatures filed. If the Secretary of State finds that the total number of signatures filed in the district or state is less than the minimum number required to qualify the candidate he shall within one working day notify in writing the counties involved that they need not verify the signatures.

6834. Each signer of a nomination paper shall sign but one paper for the same office, except that in case two or more persons are to be elected to the same office at the same election, an elector may sign the nomination papers of as many persons as there are persons to be elected to the office, and such act on the part of an elector shall not be deemed in conflict with the signer's statement prescribed in this chapter.

The signer shall declare his intention to support the candidate for nomination, and shall add his place of residence, giving his street and number, if any.

6835. Any nomination paper may be presented in sections, but each section shall contain the name of the candidate and the name of the office for which he is proposed for nomination. Each section shall bear the name of the city or town, if any, and the name of the county in which it is circulated.

6836. The affidavit of any circulator obtaining signatures under this chapter shall be verified free of charge by any officer authorized to administer oaths.

6837. A verified nomination paper is prima facie evidence that the signatures to it are genuine and that the persons signing it are voters unless it is otherwise proven by comparison of the signatures with the affidavits of registration in the office of the county clerk.

6838. Each section of a nomination paper shall be as follows:

County of _____, City (or Town) of _____ (if any).
Nomination paper of _____, candidate for the office of _____.

State of California
County of _____ } ss.

SIGNER'S STATEMENT

I, undersigned, am a voter of the City (or Town) of _____, County of _____, State of California. I hereby nominate _____, who resides at No. _____, _____ Street, City of _____, County of _____, State of California, as a candidate for the office of _____ to be voted for at the election to be held on the _____ day of _____, 19__. I have not signed the nomination paper of any other candidate for the same office, and I further declare that I intend to support for election the candidate named herein. I did not vote a partisan ballot at the immediately preceding primary election.

No.	Printed Name	Signature	Residence
1			
2			
3			
4			
5			
etc.			

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of _____ as candidate for the office of _____; that the signatures were obtained between _____ 19__ and _____ 19__; 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) _____
Circulator

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

_____
(SEAL) Notary Public (or other official)

Article 3. Circulators

6860. A candidate shall appoint circulators to serve, within the county in which they reside, for purposes of securing signatures to his nomination papers. The persons appointed pursuant to this section shall be authorized to secure signatures to the nomination

paper of the candidate in that county. The document in which they are appointed shall be filed with the county clerk of the county in which they reside, at or before the date the nomination papers of the candidate is left with the county clerk for filing or for examination. Additional circulators may be appointed in the same manner as the original circulators are appointed.

6861. Circulators appointed pursuant to this article shall be voters in the district or political subdivision in which the candidate is to be voted on and shall serve only in that district or political subdivision.

6862. A county clerk or a deputy county clerk shall not be appointed as circulators, and circulators shall not obtain signatures within 100 feet of any election booth or polling place.

6863. Circulators may be appointed by the candidate on a form which shall be substantially as follows:

I, the undersigned, a candidate for the office of _____, which _____ day of _____, 19__, do hereby appoint the following voters of the _____ of _____, as circulators to obtain signatures in that _____ to a nomination paper placing me in nomination as a candidate for that office.

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(Signature) _____
(Residence) _____

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

_____, County Clerk
By _____, Deputy

6864. Circulators appointed to obtain signatures to the nomination paper of any candidate may, at any time not more than 134 nor less than 74 days prior to the election, obtain signatures to the nomination paper of the candidate.

Article 4. Arrangement and Examination of Nomination Papers

6890. Each section of a nomination paper, after being verified, shall be returned by the circulator who circulated it to the candidate by whom the circulator was appointed. All the sections circulated in any area shall be collected by the candidate and shall be arranged for

filing and examination.

6891. For all nominations of candidates to be voted for in more than one county or throughout the state, the nomination papers, properly assembled, may be fastened together by counties, but in no case shall nomination papers signed by voters of different counties be fastened together.

6892. Nomination papers left with the county clerk for examination shall be delivered to him at least five days prior to the date upon which they are required to be filed with him, with the Secretary of State, or with the clerk or secretary of the legislative body of any city or district, as the case may be.

6893. The county clerk shall examine all nomination papers left with him for filing or for examination and shall disregard and mark "not sufficient" any name appearing on them which does not appear in the same handwriting on an affidavit of registration in his office made on or before the date when the name was signed.

6894. Within five days after any nomination papers are filed with him or left for examination, the county clerk shall examine them and affix to them a certificate reciting that he has examined them, and stating the number of names which have not been marked "not sufficient." All nomination papers which are required to be filed in the office of the Secretary of State shall be forwarded by the county clerk to the Secretary of State, who shall receive and file them. All nomination papers which are required to be filed in the office of the city clerk or secretary of the legislative body of any city shall, within five days after being so left, be forwarded by the county clerk to the city clerk or secretary of the legislative body of the city, who shall receive and file them.

Article 5. Affidavit of Candidate

6920. Each candidate, at least 74 days prior to the election, shall file with the officer with whom his nomination papers are required to be filed an affidavit which shall state:

(a) His residence, with street and number, if any.

(b) His election precinct.

(c) That he is a voter in the precinct in which he resides.

(d) The name of the office for which he is a candidate.

(e) That he will not withdraw as a candidate before the election.

(f) That, if elected, he will qualify for the office.

(g) The name of a candidate shall not be placed on the ballot unless the affidavit provided for in this section has been properly filed.

SEC. 64. Chapter 7 (commencing with Section 7100) of Division 5 of the Elections Code is repealed.

SEC. 65. Chapter 7 (commencing with Section 7200) is added to Division 7 of the Elections Code, to read:

CHAPTER 7. NOMINATION OF CANDIDATES FOR LEGISLATIVE AND CONGRESSIONAL OFFICES AT SPECIAL ELECTIONS

7200. Candidates at any special election to fill a vacancy in the office of Representative in Congress, State Senator, or Assemblyman shall be nominated as provided in this chapter.

7200.5. A special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of Assembly shall be conducted on a Tuesday at least 84 days, but not more than 91 days, following the issuance of an election proclamation by the Governor pursuant to Section 1773 of the Government Code, except that any such special election may be conducted within 180 days following the proclamation in order that the election or the primary election may be consolidated with the next regularly scheduled statewide election.

7201. A special primary election shall be held in the district in which the vacancy occurred on the fourth Tuesday preceding the day of the special general election at which the vacancy is to be filled. Candidates at the primary election shall be nominated in the manner set forth in Chapter 5 (commencing with Section 6400) of Division 5 of this code, except that nomination papers shall not be circulated more than 64 days before the primary election, shall be left with the county clerk for examination not less than 43 days before the primary election, and shall be filed with the Secretary of State not less than 39 days before the primary election.

Notwithstanding the provisions of Section 1002, applications for absent voter ballots may be submitted not more than 25 days before the primary election, except that the provisions of Section 1002 shall apply if the special election or special primary election is consolidated with a statewide election. Applications received by the clerk prior to the 25th day shall not be returned to the sender, but shall be held by the clerk and processed by him following the 25th day prior to the election in the same manner as if received at that time.

7202. All candidates shall be listed on one ballot and if any candidate receives a majority of all votes cast, he shall be declared elected, and no special general election shall be held.

7203. If no candidate receives a majority of votes cast, the name of that candidate of each qualified political party who receives the most votes cast for all candidates of that party shall be placed on the special general election ballot as the candidate of that party.

7204. Notwithstanding any other provision of this code, whenever a special general election, or a special primary election, to fill a vacancy in Congress or the State Legislature is consolidated with a statewide election, the candidates to fill the vacancy shall appear on the consolidated ballot immediately preceding the candidates for that same seat in Congress or the seat in the Legislature that most nearly encompasses the same geographical area at the statewide election, or the clerk at his option may print a

separate and distinct ballot.

SEC. 66. Chapter 8 (commencing with Section 7200) of Division 5 of the Elections Code is repealed.

SEC. 67. Article 4.5 (commencing with Section 29200) is added to Chapter 2 of Division 15 of the Elections Code, to read:

Article 4.5. Nomination Abuses

29200. Every person is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or by imprisonment for not less than 30 days nor more than six months, or by both such fine and imprisonment, who wrongfully suppresses, neglects, or fails to file at the proper time and in the proper place any nomination paper in his possession, entitled to be filed under the provisions of this code.

29201. A person shall not falsely make, or fraudulently deface or destroy, all or any part of a nomination paper.

29202. A person shall not file a nomination paper if he knows that it or any part of it has been falsely made.

29203. A person shall not suppress all or any part of a nomination paper which has been duly filed.

SEC. 68. Section 6491 of the Elections Code, as added by Section 61.3 of this bill, shall become operative only if Assembly Bill No. 3683 of the 1975–76 Regular Session is enacted, in which case Section 6491 of the Elections Code as added by Section 61 of this bill is repealed.

SEC. 69. Section 6494 of the Elections Code, as added by Section 61.4 of this bill, shall become operative only if Assembly Bill No. 3683 of the 1975–76 Regular Session is enacted, in which case Section 6494 of the Elections Code as added by Section 61 of this bill is repealed.

SEC. 70. Section 6653.3 of the Elections Code, as added by Section 61.5 of this bill, shall become operative only if Assembly Bill No. 2424 of the 1975–76 Regular Session is enacted and this bill is chaptered after Assembly Bill No. 2424.

SEC. 71. Article 4.5 (commencing with Section 29200) of Chapter 2 of Division 15 of the Elections Code, as added by Section 67 of this bill, shall not become operative if Assembly Bill No. 3683 of the 1975–76 Regular Session is enacted.

CHAPTER 1192

An act to amend Sections 2602, 11702, 11706, 11708, and 14005 of, to add Section 29203 to, to repeal Sections 220, 220.5, 284, 285, 313, 763, 7101, 7102, 7103, 7104, 7105, 7106, 7107, 29103, 29108, 29133.5, 29138, and 29430 of, to add Division 15 (commencing with Section 29100) to, to repeal Division 15 (commencing with Section 29000) of, and to repeal Chapter 3.5 (commencing with Section 29300) of Division 15 of, the Elections Code, and to amend Section 403 of the Penal Code,

relating to elections.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 220 of the Elections Code is repealed.

SEC. 2. Section 220.5 of the Elections Code is repealed.

SEC. 3. Section 284 of the Elections Code is repealed.

SEC. 4. Section 285 of the Elections Code is repealed.

SEC. 5. Section 313 of the Elections Code is repealed.

SEC. 6. Section 763 of the Elections Code is repealed.

SEC. 7. Section 2602 of the Elections Code is amended to read:

2602. The proclamation shall contain a statement of the time of election and of the offices, if any, to be filled.

SEC. 8. Section 7101 of the Elections Code is repealed.

SEC. 9. Section 7102 of the Elections Code is repealed.

SEC. 10. Section 7103 of the Elections Code is repealed.

SEC. 11. Section 7104 of the Elections Code is repealed.

SEC. 12. Section 7105 of the Elections Code is repealed.

SEC. 12.5. Section 7106 of the Elections Code is repealed.

SEC. 13. Section 7107 of the Elections Code is repealed.

SEC. 13.5. Section 11702 of the Elections Code is amended to read:

11702. The state convention, state central committee, and the county central committee in each county are the official governing bodies of a party qualified to participate in the direct primary election. The state convention, state central committee, and the county central committee in each county shall not endorse, support, or oppose, any candidate for nomination by that party for partisan office in the direct primary election.

SEC. 13.6. Section 11706 of the Elections Code is amended to read:

11706. The superior court, in any case brought before it by any registered voter, may issue a temporary or permanent restraining order or injunction against the publication, printing, circulation, posting, broadcasting, or telecasting of any matter in violation of this chapter, and all cases of this nature shall be in a preferred position for purposes of trial and appeal, so as to assure the speedy disposition thereof.

SEC. 13.7. Section 11708 of the Elections Code is amended to read:

11708. Any paid political advertisement which refers to an election or to any candidate for state or local elective office and which is contained in or distributed with a newspaper, shall bear on each surface or page thereof, in type or lettering at least half as large as the type or lettering of the advertisement or in 10-point roman type, whichever is larger, the words "Paid Political Advertisement."

03683 289145 678

Such words shall be set apart from any other printed matter.

As used in this section "paid political advertisement" shall mean and shall be limited to, published statements paid for by advertisers for purposes of supporting or defeating any person who has filed for an elective state or local office.

SEC. 13.8. Section 14005 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

14005. The clerk shall furnish to the precinct officers:

(a) Printed copies of the indexes.

(b) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations and returns.

(c) Envelopes in which to enclose returns.

(d) Not less than six nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14231, 14232, 14241, 14244, 14248, 14249, 14403, 17001, 17004, 17005, 17009, 17010, 17011, 29470, 29480, 29644, and 29649.

(e) A digest of the election laws with any further instructions the county clerk may desire to make.

(f) An American Flag of sufficient size to adequately assist the voter in identifying the polling place. The flag is to be erected at or near the polling place on election day.

(g) A ballot container, properly marked on the outside indicating its contents.

(h) When it is necessary to supply additional ballot containers, these additional containers shall also be marked on the outside, indicating their contents.

(i) Sufficient ink pads and stamps for each booth. The stamps shall be one solid piece and shall be made so that a cross (+) may be made with either end. If ballots are to be counted by vote tabulating equipment, an adequate supply of other approved voting devices shall be furnished. All voting stamps or voting devices shall be maintained in good usable condition.

(j) When a candidate or candidates have qualified to have his or their names counted pursuant to Chapter 9 (commencing with Section 17100) of Division 12, a sufficient number of ink pens or pencils in the voting booths for the purpose of writing in on the ballot the name of such candidate or candidates.

(k) A sufficient number of cards to each polling place containing the telephone number of the office to which a voter may call to obtain information about his or her precinct location. The card shall state that the voter may call collect during polling hours.

(*l*) An identifying badge or insignia for each member of the precinct board. The member shall print his or her name and the precinct number thereon and shall wear the badge or insignia at all times in the performance of duties, so as to be readily identified as a member of the precinct board by all persons entering the polling place.

(m) Facsimile copies of the ballot containing ballot measures and ballot instructions printed in Spanish or other languages as provided in Section 14203.

(n) Sufficient copies of the notices to be posted on the indexes used at the polls. The notice shall read as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14251 of the Elections Code. Any person who removes, tears, marks or otherwise defaces this index with the intent to falsify or prevent others from readily ascertaining the name, address or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor."

(o) A roster of voters for each precinct in the form prescribed in Section 14005.5.

(p) In addition, the clerk may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures to the precinct officers.

SEC. 14. Division 15 (commencing with Section 29000) of the Elections Code is repealed.

SEC. 15. Division 15 (commencing with Section 29100) is added to the Elections Code, to read:

DIVISION 15. PENAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

29100. The provisions of this division apply to all elections.

29101. Upon a conviction for any crime punishable by imprisonment in any jail or prison, in relation to which no fine is herein prescribed, the court may impose a fine on the offender not exceeding one thousand dollars ($1,000) in cases of misdemeanors or ten thousand dollars ($10,000) in cases of felonies, in addition to the imprisonment prescribed.

29102. Every person charged with the performance of any duty under the provisions of any law of this state relating to elections, who willfully neglects or refuses to perform it, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, is, unless a different punishment is prescribed by this code, punishable by fine not exceeding one thousand dollars ($1,000) or by imprisonment in the state prison for 16 months or two or three years, or by both.

CHAPTER 2. VOTER REGISTRATION

29200. Every person who willfully causes, procures, or allows himself or any other person to be registered as a voter, knowing that he or that other person is not entitled to registration, is punishable by imprisonment in the state prison for 16 months or two or three years, or in county jail for not more than one year.

29201. Any deputy clerk or registration clerk who knowingly

registers a nonexistent person, knowingly registers a person under a false name or address, or knowingly registers a person who is ineligible to register is punishable by imprisonment in the state prison for 16 months or two or three years or in county jail for not more than one year.

29202. Any person is guilty of a misdemeanor who willfully interferes with the prompt transfer of a completed affidavit of registration to the county clerk.

29203. Any deputy registrar having charge of affidavits of registration is guilty of a misdemeanor who neglects or refuses to return affidavits of registration as provided in Article 2 (commencing with Section 400) of Chapter 2 of Division 1. Within five days after the close of registration, the county clerk shall report to the district attorney of the county, under oath, the names of any deputies who have failed to return such affidavits. The district attorney shall take appropriate civil or criminal action.

CHAPTER 3. NOMINATION OF CANDIDATES

29300. Every person who subscribes to any nomination petition a fictitious name, or who intentionally subscribes thereto the name of another, or who causes another to subscribe such a name to such a petition, is guilty of a felony and is punishable by imprisonment in the state prison for 16 months or two or three years.

29301. Any person who falsely makes or fraudulently defaces or destroys all or any part of a nomination paper, is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the state prison for 16 months or two or three years or by both such fine and imprisonment.

29302. Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any nomination paper or declaration of candidacy in his possession, entitled to be filed under the provisions of this code.

29303. Any person who files or submits for filing a nomination paper or declaration of candidacy knowing that it or any part of it has been made falsely is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the state prison for 16 months or two or three years or by both such fine and imprisonment.

29304. Any person who willfully suppresses all or any part of a nomination paper or declaration of candidacy either before or after filing is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the state prison for 16 months or two or three years or by both such fine and imprisonment.

29305. A person shall not directly or through any other person advance, pay, solicit, or receive or cause to be paid or received any money or other valuable consideration to or for the use of any person in order to induce a person not to become or to withdraw as a candidate for public office. Violation of this section shall be

03683 289185 686

punishable by imprisonment in the state prison for 16 months or two or three years.

CHAPTER 4. ELECTION CAMPAIGNS

Article 1. Campaign Literature

29410. Every bill, placard, poster, pamphlet or other printed matter having reference to an election or to any candidate shall bear upon its face the name and address of the printer and publisher.

No payment therefor shall be made or allowed unless the name and address is so printed. A violation of this section shall constitute a misdemeanor.

29411. Every person is guilty of a misdemeanor who causes to be printed, posted, or distributed any circular, pamphlet, letter, or poster which is designed to injure or defeat any candidate for nomination or election to any public office by reflecting upon his personal character or political action, unless there appears upon the circular, pamphlet, letter, or poster, in a conspicuous place, the name and address of the printer and either:

(a) The name and address of the chairman and secretary or the names and addresses of at least two officers of the political or other organization issuing it; or

(b) The name and residence address, with the street and number, if any, of some person, who is responsible for it.

Any circular, pamphlet, letter, or poster issued or distributed in violation of this section is conclusively presumed not to be a privileged communication within the meaning of Section 47 of the Civil Code.

29412. Every person, other than a public officer in the performance of official duty, is guilty of a misdemeanor who writes or causes to be written, printed, posted, or distributed any circular, pamphlet, letter, or poster which is designed to promote either the passage or defeat of a measure appearing on the ballot at any election, state or local, unless there appears upon the circular, pamphlet, letter, or poster, in a conspicuous place, either:

(a) The names and residence addresses of the chairman and secretary or the names and residence addresses of at least two officers of the organization issuing it, if issued by an organization; or

(b) The name and residence address, with the street and number, if any, of any individual responsible for it, if issued by an individual or individuals.

This section shall not apply to windshield stickers or strips designed for attachment to the bumpers of automobiles or to official ballot pamphlets or other official documents containing ballot arguments submitted pursuant to Division 4 (commencing with Section 3500).

29413. In addition to any other penalty, no payment shall be made or allowed to any person in consideration for his having

03683 289195 688

prepared, printed, published, or circulated, or assisted in the preparation, printing, publishing, or circulating of any advertisement, bill, placard, poster, or other printed or duplicated matter in violation of Section 11703. Any person who knowingly pays or receives a payment in violation of this section is guilty of a misdemeanor.

29414. In addition to any other penalty, any person who prints or otherwise duplicates, or causes to be printed or duplicated, a simulated ballot or simulated sample ballot which does not contain the statement required by Section 11709 or which uses an official seal or insignia in violation thereof, is guilty of a misdemeanor.

29415. Every person is guilty of a misdemeanor who knowingly causes to be mailed or distributed, or knowingly mails or distributes, literature to any voter which includes a designation of the voter's precinct polling place other than a precinct polling place listed for that voter in an official precinct polling list which constituted the latest official precinct polling list at sometime not more than 30 days prior to such mailing or distribution.

29416. Every person who violates the provisions of Section 84305 of the Government Code relating to mass mailing is subject to the penal provisions set forth in Chapter 11 (commencing with Section 91000) of Title 9 of the Government Code.

Article 2. Political Party Caucuses

29420. A person shall not directly or through any other person pay or receive any money or other valuable consideration before, during, or after an election in order to reward any person or as a reward for voting for or against or agreeing to vote for or against the election or endorsement of any other person as the nominee or candidate of any caucus, convention, organized assemblage of delegates, or other body representing or claiming to represent a political party, candidate, or principle, or any club, society, or association. A violation of this section shall be punishable by imprisonment in the state prison for 16 months or two or three years.

29421. Every person is punishable by imprisonment in the state prison for 16 months or two or three years who:

(a) Gives or offers a bribe to any officer or member of any political convention, committee, or political gathering of any kind, held for the purpose of nominating candidates for offices of honor, trust or profit in this state, with intent to influence the person to whom the bribe is given or offered to be more favorable to one candidate than another.

(b) Being a member of any of the bodies mentioned in this section receives or offers to receive any such bribe.

Article 3. Claims of Endorsements

29430. No candidate for nomination of a political party for a partisan office in the direct primary election shall claim, nor shall any other person claim on his behalf, that he or she is the official candidate or the officially endorsed candidate of such political party. A violation of this section by any person shall constitute a misdemeanor.

Article 4. Political Meetings

29440. Every person who, by threats, intimidations, or unlawful violence, willfully hinders or prevents electors from assembling in public meetings for the consideration of public questions is guilty of a misdemeanor.

Article 5. Misrepresentation by Candidates

29450. Every person is guilty of a misdemeanor who, with intent to mislead the voters in connection with his campaign for nomination or election to a public office or in connection with the campaign of another person for nomination or election to a public office, shall do either of the following acts:

(a) Assume, pretend, or imply, by his statements or conduct, that he is the incumbent of a public office when that is not the case.

(b) Assume, pretend, or imply, by his statements or conduct, that he is or has been acting in the capacity of a public officer when that is not the case.

Any violation of this section may be enjoined in a civil action brought by any candidate for the public office involved.

Article 6. Solicitation of Funds

29460. Any person who violates Section 12301 is guilty of a misdemeanor.

Article 7. Electioneering

29470. No person, on election day, shall, within 100 feet of a polling place:

(a) Circulate an initiative, referendum, recall, or nomination petition.

(b) Solicit a vote or speak to a voter on the subject of marking his ballot.

(c) Place a sign relating to voters' qualifications or speak to a voter on the subject of his qualifications except as provided in Section 14216.

(d) Do any electioneering.

As used in this section "100 feet of a polling place" shall mean a

distance 100 feet from the room or rooms in which voters are signing the roster and casting ballots.

Any person who violates any of the provisions of this section is guilty of a misdemeanor.

Article 8. Vandalism at Polling Places

29480. No person shall, during any election:

(a) Remove or destroy any of the supplies or other conveniences placed in the voting booths or compartments for the purpose of enabling the voter to prepare his ballot.

(b) Remove, tear down, or deface the cards printed for the instruction of voters

(c) Remove, tear, mark or otherwise deface any voter index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted.

Any person who violates any of the provisions of this section is guilty of a misdemeanor.

CHAPTER 5. BALLOTS

29500. Any person who makes, uses, keeps, or furnishes to others, any paper or punchcards watermarked or overprinted in imitation of ballot paper or punchcards is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the state prison for 16 months, two or three years, or by both such fine and imprisonment.

29501. Every person who prints any ballot not in conformity with the provisions of Chapter 2 (commencing with Section 10200) of Division 7, or who circulates or gives to another any ballot, knowing at the time that the ballot does not conform to the provisions of Chapter 2 (commencing with Section 10200) of Division 7, is guilty of a misdemeanor.

CHAPTER 6. CORRUPTION OF THE VOTING PROCESS

Article 1. General Provisions

29610. Any person who attempts to aid or abet fraud in connection with any vote cast or to be cast, or attempted to be cast, is guilty of a felony, punishable by imprisonment for 16 months or two or three years.

29611. 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 upon conviction shall be sentenced to a state prison for 16

03683 289235 696

months or two or three years.

29612. Any person who in any manner 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 punishable by imprisonment in the state prison for 16 months or two or three years.

Article 2. Corruption of Voters

29620. A person shall not directly or through another person give, offer, or promise any office, place, or employment, or promise to procure or endeavor to procure any office, place, or employment to or for any voter, or to or for any other person, in order to induce that voter at any election to:

(a) Refrain from voting.

(b) Vote for any particular person.

(c) Refrain from voting for any particular person.

A violation of any of the provisions of this section shall be punishable by imprisonment in the state prison for 16 months or two or three years.

29621. A person shall not directly or through any other person receive, agree, or contract for, before, during or after an election, any money, gift, loan, or other valuable consideration, office, place, or employment for himself or any other person because he or any other person:

(a) Voted, agreed to vote, refrained from voting, or agreed to refrain from voting for any particular person.

(b) Remained away from the polls.

(c) Refrained or agreed to refrain from voting.

(d) Induced any other person to:

(1) Remain away from the polls.

(2) Refrain from voting.

(3) Vote or refrain from voting for any particular person.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

29622. A person shall not, directly or through any other person pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) Induce the voter to:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person.

(3) Remain away from the polls at an election.

(b) Reward the voter for having:

(1) Refrained from voting.

(2) Voted for any particular person.

(3) Refrained from voting for any particular person.

03683 289245 698

(4) Remained away from the polls at an election.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

29623. A person shall not directly or through any other person advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that it, or any part thereof, shall be used in bribery at any election; or knowingly pay or cause to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part, expended in bribery at any election.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years

29624. A person shall not directly or through any other person advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that it, or any part thereof, will be used for boarding, lodging, or maintaining a person at any place or domicile in any election precinct, ward, or district, with intent to secure the vote of that person or to induce that person to vote for any particular person.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years

Article 3. Intimidation of Voters

29630. Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person at any election is punishable by imprisonment in the state prison for 16 months or two or three years.

29631. Every employer, whether a corporation or natural person, is guilty of a misdemeanor who, in paying his employees the salary or wages due them, incloses their pay in pay envelopes upon which or in which there is written or printed the name of any candidate or any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of the employees.

29632. Every person is guilty of a misdemeanor who knowingly challenges or causes another person to challenge a person's right to vote without probable cause or on fraudulent or spurious grounds, or who engages in mass, indiscriminate and groundless challenging of voters solely for the purpose of preventing said voters from voting or to delay the process of voting, or who fraudulently advises any person that he is not eligible to vote or is not registered to vote when in fact such person is eligible or is registered, or who violates any part of Section 14216.

03683 289260 701

Article 4. Corruption of Voting

29640. Every person is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years, or in county jail not exceeding one year, who:

(a) Not being entitled to vote at an election, fraudently votes or fraudently attempts to vote at that election.

(b) Being entitled to vote at an election, votes more than once, attempts to vote more than once, or knowingly hands in two or more ballots folded together at that election.

(c) Impersonates or attempts to impersonate a voter at an election.

29641. Every person is punishable by imprisonment in the state prison for 16 months or two or three years who:

(a) Procures, assists, counsels, or advises another to give or offer his vote at any election, knowing that the person is not qualified to vote.

(b) Aids or abets in the commission of any of the offenses mentioned in Section 29640.

29642. Any person who votes or attempts to vote an absent voter's ballot by fraudulently signing the name of a regularly qualified voter is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years, or by fine not exceeding one thousand dollars ($1,000) or by both such fine and imprisonment.

29643. Every member of a precinct board is guilty of a misdemeanor who, prior to putting the ballot of a voter in the ballot box, commits any of the following:

(a) Attempts to find out any name on the ballot.

(b) Opens or suffers to be opened or examined the folded ballot of any voter which has been handed in.

(c) Makes or places any mark or device on any folded ballot with a view to ascertaining the name of any person for whom the voter has voted.

29644. Every member of a precinct board is guilty of a misdemeanor who, without the consent of a voter, discloses the name of any candidate the board member has discovered in his capacity as a member of the board to have been voted for by the voter.

29645. Any person who, before or during an election, tampers with any voting machine, interferes or attempts to interfere with the correct operation of a voting machine or the secrecy of voting, or willfully injures a voting machine to prevent its use, and any unauthorized person who makes or has in his possession a key to a voting machine that has been adopted and will be used in elections in this state, is guilty of a felony, punishable by imprisonment in a state prison for two, three, or four years.

29646. Every person is punishable by imprisonment in the state prison for two, three, or four years who:

(a) Forges or counterfeits returns of an election purported to

have been held at a precinct where no election was in fact held.

(b) Willfully substitutes forged or counterfeit returns of election in the place of true returns for a precinct where an election was actually held.

29647. Every person who willfully adds to or subtracts from the votes actually cast at an election, in any official or unofficial returns, or who alters the returns, is punishable by imprisonment in the state prison for 16 months or two or three years.

29648. Every person who aids or abets in the commission of any of the offenses mentioned in Section 29646, 29647, or 29649 is punishable by imprisonment in the county jail for the period of six months or in the state prison for 16 months or two or three years.

29649. Every person is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the state prison for 16 months or two or three years, or by both such fine and imprisonment, who:

(a) Aids in changing or destroying any poll list or official ballot.

(b) Aids in wrongfully placing any ballots in the ballot container 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 container, 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 container, or ballots lawfully polled or who willfully detains, mutilates, or destroys any election returns.

(f) Removes any unvoted ballots from the polling place before the completion of the ballot count.

29650. Every person is guilty of a misdemeanor who 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.

29651. Any person acting on any counting board who refuses to obey any lawful order of the county 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.

29652. 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.

29653. Every person is guilty of a felony punishable by

imprisonment in the state prison for 16 months or two or three years who furnishes any voter wishing to vote, who cannot read, with a ballot, informing or giving that voter to understand that it contains a name written or printed thereon different from the name which is written or printed thereon, or defrauds any voter at any election by deceiving and causing him to vote for a different person for any office than he intended or desired to vote for.

29654. Every person who, after being required by the precinct board at an election, refuses to be sworn or, being sworn, refuses to answer any pertinent questions propounded by the board touching the right of another to vote, is guilty of a misdemeanor.

29655. Every person is guilty of a felony, and on conviction shall be punished by imprisonment in the state prison for two, three or four years, who at any election:

(a) Without first having been appointed and qualified, acts as an election officer.

(b) Not being an election officer, performs or discharges any of the duties of an election officer in regard to the handling, counting, or canvassing of any ballots.

CHAPTER 7. INITIATIVE, REFERENDUM, AND RECALL

Article 1. General Provisions

29710. As used in this chapter, "proponent or proponents of an initiative or referendum measure" means the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he prepare a title and summary of the chief purpose and points of the proposed measure.

29711. As used in this chapter, "proponent or proponents of a recall petition" means the person or persons who have charge or control of the circulation of, or obtaining signatures, to such petitions.

Article 2. Improper Signature-Gathering Tactics

29720. Every person is guilty of a misdemeanor who:

(a) Circulating, as principal or agent, or having charge or control of the circulation of, or obtaining signatures to, any state or local initiative, referendum or recall petition, intentionally misrepresents or intentionally makes any false statement concerning the contents, purport or effect of the petition to any person who signs, or who desires to sign, or who is requested to sign, or who makes inquiries with reference to it, or to whom it is presented for his signature.

(b) Willfully and knowingly circulates, publishes or exhibits any false statement or misrepresentation concerning the contents, purport or effect of any state or local initiative, referendum, or recall petition for the purpose of obtaining any signature to, or persuading or influencing any person to sign, that petition.

29721. Any person working for the proponent or proponents of

an initiative or referendum measure or recall petition who refuses to allow a prospective signer to read the measure or petition is guilty of a misdemeanor.

An arrest or conviction pursuant to this section shall not invalidate or otherwise affect the validity of any signature obtained by the person arrested or convicted.

29722. Any person working for the proponent or proponents of a statewide initiative or referendum measure who covers or otherwise obscures the summary of the measure prepared by the Attorney General from the view of a prospective signer is guilty of a misdemeanor.

Article 3. False or Ineligible Signatures on Petition

29730. Every person who solicits any circulator to affix to any initiative, referendum, or recall petition any false or forged signature, or to cause or permit such signature to be affixed, is guilty of a misdemeanor.

29731. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both such fine and imprisonment, who circulates or causes to be circulated any initiative, referendum, or recall petition, knowing it to contain false, forged, or fictitious names.

29732. Every person is guilty of a misdemeanor who knowingly signs his own name more than once to any initiative, referendum, or recall petition, or signs his name to any such petition knowing himself at the time of signing not to be qualified to sign it.

29733. Every person who subscribes to any initiative, referendum, or recall petition a fictitious name, or who subscribes thereto the name of another, or who causes another to subscribe such a name to such a petition, is guilty of a felony and is punishable by imprisonment in the state prison for two, three or four years.

29734. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both such fine and imprisonment, who files in the office of the clerk or other officer designated by law to receive such filing, any initiative, referendum, or recall petition to which is attached, appended or subscribed any signature which the person filing the petition knows to be false or fraudulent or not the genuine signature of the person whose name it purports to be.

Article 4. Improper Payments to Prevent Petition Circulation and Filing

29740. Every person who seeks, solicits, bargains for, or obtains any money, thing of value, or advantage of or from any person, firm, or corporation for the purpose or represented purpose of

03683 289320 713

fraudulently inducing, persuading, or seeking the proponent or proponents of any initiative or referendum measure or recall petition to (a) abandon such measure or petition; (b) fail, neglect, or refuse to file in the office of the clerk or other officer designated by law, within the time required by law, such initiative or referendum measure or recall petition after securing the number of signatures required to qualify such measure or petition; (c) stop the circulation of such initiative or referendum measure or recall petition; or (d) perform any act that will prevent or aid in preventing the initiative or referendum measure or recall petition from qualifying as an initiative or referendum measure, or the recall petition from resulting in a recall election, is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison 16 months or two or three years or in a county jail not exceeding one year, or by both such fine and imprisonment.

29741. Any proponent of an initiative or referendum measure or recall petition who seeks, solicits, bargains for, or obtains any money or thing of value of or from any person, firm, or corporation for the purpose of abandoning the same or stopping the circulation of petitions concerning the same, or failing or neglecting or refusing to file such measure or petition in the office of the clerk or other officer designated by law within the time required by law after obtaining the number of signatures required under the law to qualify such measure or petition, or performing any act that will prevent or aid in preventing the initiative, referendum or recall proposed from qualifying as an initiative or referendum measure, or resulting in a recall election is punishable by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year or by both such fine and imprisonment.

29742. Every person who offers to buy or does buy from a circulator any referendum, initiative, or recall petition on which one or more persons have affixed their signatures is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one year, or by a fine not exceeding one thousand dollars ($1,000), or both. This section is not intended to prohibit compensation of a circulator, for his services, by a proponent of the petition or his agent.

Article 5. Threats and Theft to Prevent Petition Circulation and Filing

29750. Every person who threatens to commit an assault or battery on a relative of a person circulating a referendum, initiative, or recall petition or to inflict damage on the property of such circulator or such relative, with the intent to dissuade the circulator from circulating the petition or in retribution for such circulation, is guilty of a misdemeanor.

29751. Every person who forcibly or by stealth takes from the

03683 289335 716

possession of a circulator any initiative, referendum, or recall petition on which one or more persons have affixed their signatures is guilty of a misdemeanor.

Article 6. Refusal of Circulators to Turn in Petitions

29760. Any person working for the proponent or proponents of an initiative or referendum measure or recall petition who solicits signatures to qualify such measure or petition and accepts any payment therefor and who fails to surrender such measure or petition to the proponents thereof for filing is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both such fine and imprisonment.

Article 7. Misuse of Signatures on Petition

29770. No circulator of an initiative, referendum, or recall petition shall permit the list of signatures on the petition to be used for any purpose other than qualification of the initiative or referendum measure or recall question for the ballot. Violation of this section is a misdemeanor.

Article 8. False Affidavits Concerning Petitions

29780. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both such fine and imprisonment, who makes any false affidavit concerning any initiative, referendum, or recall petition or the signatures appended thereto.

29781. Every public official or employee is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both such fine and imprisonment, who knowingly makes any false return, certification or affidavit concerning any initiative, referendum, or recall petition or the signatures appended thereto.

Article 9. Filing Petitions to Defeat an Initiative or Referendum

29790. Every person is guilty of a misdemeanor who, either as principal or agent, files in the office of the Secretary of State, county clerk, or in the office of any other officer designated by law to receive such filing, a petition or any section of a petition relating to the Constitution or the laws of this state, authorized by the Constitution or laws of this state regulating the statewide initiative or referendum, with the intention of thereby defeating that initiative or referendum measure which is embraced in the petition. Nothing in this section

applies to any person who, in good faith, files a petition embracing an initiative or referendum measure which conflicts with a similar measure already on file.

29791. Any petition, or any section of a petition, filed by any person other than the proponents of an initiative or referendum measure and with an intention of defeating an expression of the public will is null and void.

Article 10. Misuse of Campaign Funds

29795. Every person who is entrusted with money or things of value, for the purpose of promoting or defeating any initiative, referendum, or recall petition which is to be filed in the office of the Secretary of State or any statewide measure which has qualified for the ballot shall be considered a trustee of such money or things of value. If he wrongfully appropriates such money or things of value to any use or purpose not in the due and lawful execution of his trust, he shall be punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both such fine and imprisonment. The following expenses shall be considered to be within the due and lawful execution of the trust:

(a) Securing signatures to initiative, referendum, or recall petitions.

(b) Circulating initiative, referendum, or recall petitions.

(c) Holding and conducting public meetings.

(d) Printing and circulating prior to an election:

(1) Specimen ballots.

(2) Handbills.

(3) Cards.

(4) Other papers.

(e) Advertising.

(f) Postage.

(g) Expressage.

(h) Telegraphing.

(i) Telephoning.

(j) All salaries and expenses of:

(1) Campaign managers.

(2) Lecturers.

(3) Solicitors.

(4) Agents.

(5) All persons employed in transacting business at headquarters or branch offices.

(k) Maintaining headquarters and branch offices.

(*l*) Renting of rooms for the transaction of the business of an association.

Expenses for food, clothing, shelter and other personal needs of the trustee shall not be considered to be within the due and lawful execution of his trust.

03683 289365 722

CHAPTER 8. OBLIGATIONS OF PRECINCT BOARD MEMBERS

29800. 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, knowingly fails to act as such, is guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars ($100).

SEC. 16. Section 29103 of the Election Code, as amended by Chapter 220 of the Statutes of 1976, is repealed.

SEC. 17. Section 29108 of the Elections Code, as amended by Chapter 220 of the Statutes of 1976, is repealed.

SEC. 18. Section 29133.5 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is repealed.

SEC. 19. Section 29138 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is repealed.

SEC. 20. *Section 29203 is added to the Elections Code, to read:*

29203. Any deputy registrar having charge of affidavits of registration is guilty of a misdemeanor who knowingly neglects or refuses to return affidavits of registration as provided in Article 2 (commencing with Section 400) of Chapter 2 of Division 1. Within five days after the close of registration, the county clerk shall report to the district attorney of the county, under oath, the names of any deputies who have failed to return such affidavits. The district attorney shall take appropriate civil or criminal action.

SEC. 21. Chapter 3.5 (commencing with Section 29300) of Division 15 of the Elections Code, as added by Chapter 224 of the Statutes of 1976, is repealed.

SEC. 22. Section 29430 of the Elections Code, as amended by Chapter 220 of the Statutes of 1976, is repealed.

SEC. 22.5. Section 403 of the Penal Code is amended to read:

403. Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting, not unlawful in its character, other than such as is mentioned in Section 302 of the Penal Code and Section 29440 of the Elections Code, is guilty of a misdemeanor.

SEC. 23. Sections 1 to 6, inclusive, of this act, repealing various provisions of the Elections Code, shall not become operative if Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature is also chaptered and Assembly Bill No. 2606 repeals and adds Division 1 (commencing with Section 100) to the Elections Code.

SEC. 24. Section 7 of this act, amending Section 2602 of the Elections Code, shall not become operative if Assembly Bill No. 3684 of the 1975–76 Regular Session of the Legislature is also chaptered and Assembly Bill No. 3684 repeals and adds Division 3 (commencing with Section 2500) to the Elections Code.

SEC. 25. Sections 8, 9, 10, 11, 12, 12.5, and 13 of this act, repealing various provisions of the Elections Code, shall not become operative if Assembly Bill No. 3612 of the 1975–76 Regular Session of the

Legislature is also chaptered and Assembly Bill No. 3612 repeals Chapter 7 (commencing with Section 7100) of Division 5 of the Elections Code.

SEC. 26. Section 29203 of the Elections Code, as proposed to be added in the form set forth, in Section 20 of this bill, shall only become operative if Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature is also chaptered and Assembly Bill No. 2606 repeals and adds Division 1 (commencing with Section 100) to the Elections Code. Therefore, if Assembly Bill No. 2606 is also chaptered, Section 20 of this bill, adding Section 29203 to the Elections Code, shall become operative, and in which case Section 29203, as proposed to be added to the Elections Code in the form set forth in Section 15 of this bill, shall not become operative.

SEC. 27. It is the intent of the Legislature that if this bill and Assembly Bill No. 3195 of the 1975–76 Regular Session of the Legislature are both chaptered and this bill is chaptered last, adding Sections 29100 and 29645 to the Elections Code, and Assembly Bill No. 3195 adds Sections 10310 and 10311 to the Elections Code that Sections 29100 and 29645, as proposed to be added by Section 15 of this act, shall become operative and Sections 10310 and 10311, as proposed to be added by Assembly Bill No. 3195 shall not become operative.

SEC. 28. The state prison sentencing provisions of this act shall be considered to be minimum and maximum prison sentences to be determined by the Adult Authority under Section 1168 or 1168a, as the case may be, and Section 5077, of the Penal Code, until the operative date of Senate Bill 42 of the 1975–1976 Regular Session. On the operative date of Senate Bill 42, the state prison sentencing provisions of this act shall be applied in accordance with the provisions of Senate Bill 42, if Senate Bill 42 is chaptered.

CHAPTER 1193

An act to amend Sections 69582, 70047, 70056.5, 73343, 73347, 73351, 73351.1, 73352, and 73353 of, to add Sections 68526 and 73353.5 to, and to repeal Section 70047.1 of, the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 68526 is added to the Government Code, to read:

68526. (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; 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. 1.5. Section 69582 of the Government Code is amended to read:

69582. In the County of Contra Costa there shall be 12 judges of the superior court.

SEC. 2. Section 70047 of the Government Code is amended to read:

70047. (a) 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. Seventeen thousand six hundred four dollars ($17,604).

Step (2). Eighteen thousand four hundred eighty dollars ($18,480).

Step (3). Nineteen thousand four hundred four dollars ($19,404).

Step 4. Twenty thousand three hundred seventy-six dollars ($20,376)

Effective July 1, 1977, the annual salary of each regular official reporter shall be based on a five-step salary plan with one-year increments as follows:

Step 1. Seventeen thousand six hundred four dollars ($17,604)

Step 2. Eighteen thousand four hundred eighty dollars ($18,480)

Step 3. Nineteen thousand four hundred four dollars ($19,404)

Step 4. Twenty thousand three hundred seventy-six dollars ($20,376)

Step 5. Twenty-one thousand three hundred ninety-six dollars ($21,396)

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 employment on the effective date of their permanent appointment to a duly allocated exempt position. The compensation of each official reporter pro tempore shall be at the rate of seventy dollars ($70) a day for the days he actually is on duty

04314 289425 734

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.

(b) 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.

(c) Beginning July 1, 1977, the board of supervisors shall adjust the salary of regular official reporters as part of its annual review of county employee compensation. Such adjustments shall be the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, legal services clerk, intermediate stenographer-clerk, and intermediate typist-clerk. Any such reporter salary adjustments shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but such adjustments shall not be effective beyond December 31, 1978 for official reporters of each municipal court district. The compensation of each official reporter pro tempore shall remain at the rate of seventy dollars ($70) a day for the days he actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

SEC. 2.5. Secton 70047.1 of the Government Code is repealed.

SEC. 3. 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 sixteen dollars ($16).

SEC. 4. Section 73343 of the Government Code is amended to read:

73343. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in the sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases receive seventy dollars ($70) a day, which shall upon order of the court be a charge against the general fund of the county.

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 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 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 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 any adjustment shall be effective only until January 1, of the second year following the calendar year in which the adjustment is made.

SEC. 7. 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 178
(b) Deputy clerk II	Level 222
(c) Deputy clerk III	Level 286
(d) Process clerk	Level 286
(e) Supervising process clerk	Level 334
(f) Deputy clerk IV	Level 351
(g) Deputy marshal	Level 381
(h) Chief deputy clerk	Level 431
(i) Deputy marshal sergeant	Level 429
(j) Clerk-administrator of the court	Level 503
(k) Marshal	Level 509

SEC. 8. 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 adjustment 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 adjustment shall be effective

only until January 1, of the second year following the calendar year in which the adjustment is made.

(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 not less than 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 not less than 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 not less than seventy-two (72) salary levels on the salary schedule above that of chief deputy clerk.

SEC. 9. Section 73353 of the Government Code is amended to read:

73353. There shall be one clerk-administrator of the court for each court who shall be appointed by the judge in a single-judge district, the presiding judge in a two-judge district, or a majority of the judges in districts having more than two judges, provided that as of the effective date of this amendment, the clerk of each municipal court shall become the clerk-administrator.

Except as provided in Section 73353.5, the clerk-administrator of the particular municipal court shall appoint all other employments in the municipal court offices subject to the approval of the judge in

a single-judge district, the presiding judge in a two-judge district, or a majority of judges in districts having more than two judges.

SEC. 10. Section 73353.5 is added to the Government Code, to read:

73353.5. The judge of the court, the presiding judge in a two-judge district, or a majority of the judges in a district having more than two judges shall appoint the marshal. The marshal of the district shall appoint all other employments in the marshal's office of that district, subject to the approval of the judge in a single-judge district, the presiding judge in a two-judge district or a majority of the judges in a district having more than two judges.

SEC. 11. In the event that any provision of Section 1 or 2 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, both Sections 1 and 2 of this act shall be void, and to this end, the provisions of Sections 1 and 2 of this act are inseverable.

SEC. 12. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to Contra Costa County pursuant to Section 2231 of the Revenue and Taxation Code to reimburse the county for costs incurred by it pursuant to Section 1 of this act. 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 this act.

CHAPTER 1194

An act to amend Sections 18055, 18056.1, 18056.5, 18056.7, 18058, 18058.5, 18059, 18063, and 18080 of, and to add Sections 18055.5 and 18080.5 to, the Health and Safety Code, relating to mobilehomes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 18055 of the Health and Safety Code is amended to read:

18055. It is unlawful for any person to sell, offer for sale, rent, or lease within this state, any mobilehome manufactured after September 1, 1958, or recreational vehicle manufactured after November 13, 1968, or any trailer coach designed or used for industrial, professional, or commercial purposes manufactured after May 25, 1967, or commercial coach manufactured after November 23, 1970, containing plumbing, heat-producing, or electrical equipment unless such equipment meets the requirements of the department for such equipment and installations. The commission is authorized

04512 289485 746

to promulgate such rules and regulations which shall be reasonably consistent with recognized and accepted principles for plumbing, heat-producing, and electrical equipment and installations, respectively, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe plumbing, heat-producing, and electrical equipment and installations. All mobilehomes manufactured on or after the effective date of the amendments to this section enacted by the Statutes of 1976 shall comply with the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. §5401, et seq.).

SEC. 2. Section 18055.5 is added to the Health and Safety Code, to read:

18055.5. (a) Pursuant to the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. §5401, et seq.), the department is authorized to assume responsibility for enforcement of mobilehome safety and construction standards relating to any issue with respect to which a federal standard has been established. The department may adopt regulations to insure acceptance by the Secretary of Housing and Urban Development of California's plan for administration and enforcement of federal mobilehome safety and construction standards.

(b) The department is authorized to conduct such inspections and investigations as may be necessary to secure enforcement of the provisions of this part and regulations adopted pursuant thereto. For the purposes of enforcement of this part and the related regulations, persons duly designated by the director of the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, may (1) enter, at any reasonable times and without advance notice, any factory, warehouse, saleslot, or establishment in which mobilehomes are manufactured, stored, held for sale, sold, or offered for sale, rent, or lease; and (2) inspect, at reasonable times and within reasonable limits and in a reasonable manner, any factory, warehouse, saleslot, or establishment, and to inspect such books, papers, records, and documents to ensure compliance with the provisions of this part.

SEC. 3. Section 18056.1 of the Health and Safety Code is amended 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. All mobilehomes manufactured on or after the effective date of the amendments to this section enacted by the Statutes of 1976 shall comply with the National Mobile Home Construction and Safety Act of 1974 (42 U.S.C. §5401, et seq.).

An insignia of approval shall not be affixed to any new mobilehome

04512 289495 748

unless such mobilehome has been inspected by the department while under construction pursuant to the regulations of the commission under this section.

SEC. 4. Section 18056.5 of the Health and Safety Code is amended to read:

18056.5. The commission may adopt such regulations for the construction of mobilehomes and commercial coaches as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. These regulations shall be reasonably consistent with the American National Standards Institute standards for the construction of mobilehomes. All mobilehomes manufactured on or after the effective date of the amendments to this section enacted by the Statutes of 1976 shall comply with the National Mobile Home Construction and Safety Act of 1974 (42 U.S.C. §5401, et seq.).

SEC. 5. Section 18056.7 of the Health and Safety Code is amended to read:

18056.7. The provisions of Section 17920.9, and the rules and regulations adopted pursuant thereto, shall be applicable to the sale, offering for sale, or use in the construction of mobilehomes of any foam building system, and to any mobilehome in which such system is used as a component. All mobilehomes manufactured on or after the effective date of the amendments to this section enacted by the Statutes of 1976 shall comply with the National Mobile Home Construction and Safety Act of 1974 (42 U.S.C. §5401, et seq.).

SEC. 6. Section 18058 of the Health and Safety Code is amended to read:

18058. (a) The commission is authorized to promulgate rules and regulations which it determines are reasonably consistent with generally recognized fire protection standards, governing conditions relating to the prevention of fire or for the protection of life and property against fire in mobilehomes, recreational vehicles, and commercial coaches. All mobilehomes manufactured on or after the effective date of the amendments to this section enacted by the Statutes of 1976 shall comply with the National Mobile Home Construction and Safety Act of 1974 (42 U.S.C. §5401, et seq.).

(b) The chief fire official of every city, county, city and county, fire protection district, or other local fire protection agency shall file a report of each mobilehome fire occurring within his jurisdiction with the State Fire Marshal. Such report shall be made on forms provided by the State Fire Marshal.

The State Fire Marshal shall annually compile a statistical report of all mobilehome fires occurring within this state and shall furnish the commission with a copy of such report. The annual report shall include, but need not be limited to, the number of mobilehome fires, the causes of such fires, the monetary loss, and any casualties or fatalities resulting from such fires.

SEC. 7. Section 18058.5 of the Health and Safety Code is amended to read:

18058.5. If the commission determines that standards for recreational vehicles, which have been prescribed by the statutes, or regulations of another state, are at least equal to the standards prescribed by the commission, the commission may so provide by regulation. Thereafter, any recreational vehicles which such other state has approved as meeting its standards shall be deemed to meet the standards of the commission, if the commission determines that the standards of such other state are actually being enforced.

SEC. 8. Section 18059 of the Health and Safety Code is amended to read:

18059. No mobilehome, recreational vehicle, or commercial coach which meets the standards prescribed by this chapter and the regulations adopted pursuant thereto shall be required to comply with any local ordinances or regulations prescribing requirements on the same subject matter.

SEC. 9. Section 18063 of the Health and Safety Code is amended to read:

18063. Nothing in this part or any other provision of law shall be construed to prohibit the installation of fireplaces in mobilehomes. The commission, no later than July 1, 1974, shall adopt any regulations for the installation of fireplaces in mobilehomes which it may determine are reasonably necessary in order to protect the health and safety of the occupants and to assure that any such installation does not impair the efficiency of the primary heating or cooling system of the mobilehome. All mobilehomes manufactured on or after the effective date of the amendments to this section enacted by the Statutes of 1976, which contain fireplaces, shall comply with the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. §5401, et seq.).

SEC. 10. Section 18080 of the Health and Safety Code is amended to read:

18080. (a) Any person who knowingly violates any of the provisions of this part or any rules or regulations issued pursuant to this part, except for a violation of any federal mobilehome construction and safety standard for which a penalty is provided in Section 18080.5, is guilty of a misdemeanor, punishable by a fine not exceeding two hundred dollars ($200), or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

(b) Notwithstanding Section 801 of the Penal Code, the one-year period for filing an indictment or an information or complaint with respect to any misdemeanor in subdivision (a) by a dealer or manufacturer in the first sale or lease of any mobilehome, commercial coach, or recreational vehicle to a consumer shall commence on the date the mobilehome, commercial coach, or recreational vehicle is delivered to the consumer.

(c) "Consumer," as used in this section, includes any person, firm, partnership, association, corporation, or entity who purchases or leases a mobilehome, commercial coach, or recreational vehicle for a consideration, except a dealer or a manufacturer.

SEC. 11. Section 18080.5 is added to the Health and Safety Code, to read:

18080.5. (a) Any person who violates any provision of Section 5409 of Title 42 of the United States Code, or any regulation or final order issued thereunder, in this state shall be liable to the State of California for a civil penalty of not to exceed one thousand dollars ($1,000) for each such violation. Each violation of a provision of Section 5409 of Title 42 of the United States Code, or any regulation or order issued thereunder, shall constitute a separate violation with respect to each mobilehome, or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars ($1,000,000) for any related series of violations occurring within one year from the date of the first violation.

(b) Any individual or a director, officer, or agent of a corporation who intentionally violates Section 5409 of Title 42 of the United States Code in this state in a manner which threatens the health and safety of any purchaser shall be subject to a state fine of not more than one thousand dollars ($1,000), or by imprisonment for not more than one year, or by both such fine and imprisonment.

SEC. 11.5. 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 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.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that state law relating to mobilehome construction and safety standards may conform with the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. §5401, et seq.) at the earliest opportunity, it is necessary that this act take immediate effect.

CHAPTER 1195

An act to amend Sections 1411, 1412, 1419, 1419.7, 1420 and 1432 of the Labor Code, relating to fair employment practices.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 1411 of the Labor Code is amended to read:

1411. It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment for such reasons foments domestic strife and unrest, deprives the state of the fullest utilization of its capacities for development and advance, and substantially and adversely affects the interest of employees, employers, and the public in general.

This part shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health, and peace of the people of the State of California.

SEC. 2. Section 1412 of the Labor Code is amended to read:

1412. The opportunity to seek, obtain and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex is hereby recognized as and declared to be a civil right.

SEC. 3. Section 1419 of the Labor Code is amended to read:

1419. The commission shall have the following functions, powers and duties:

(a) To establish and maintain a principal office and such other offices within the state as the Legislature authorizes.

(b) To meet and function at any place within the state.

(c) 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.

(d) To obtain upon request and utilize the services of all governmental departments and agencies.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this part.

(f) To receive, investigate and pass upon complaints alleging discrimination in employment because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex.

(g) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath 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.

(h) 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, national origin, ancestry, physical handicap, medical condition, marital status, or sex, 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.

(i) 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, national origin, ancestry, physical handicap, medical condition, marital status, or sex.

(j) To investigate, approve, and certify equal employment opportunity programs proposed by a contractor to be engaged in pursuant to subdivision (b) of Section 1431, and to fix and collect such fees as are necessary for the cost of the investigation, approval or certification. The fees collected shall be paid into the General Fund of the State Treasury.

(k) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

SEC. 4. Section 1419.7 of the Labor Code is amended to read:

1419.7. The commission may also provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, religious creed, color, national origin, marital status, or ancestry which impair the rights of persons in such communities under the Constitution or laws of the United States or of this state. The services of the commission may be made available in cases of such disputes, disagreements, or difficulties only when, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby. The commission's services are to be made available only upon the request of an appropriate state or local public body, or upon the request of any person directly affected by any such dispute, disagreement, or difficulty.

The assistance of the commission pursuant to this section shall be limited to endeavors at conference, conciliation, and persuasion.

SEC. 5. Section 1420 of the Labor Code is amended to read:

1420. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ him or to refuse to select him for a training program leading to employment, or to bar or to discharge such person from employment or from a training program leading to employment, or to

discriminate against such person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his physical handicap, is unable to perform his duties, or he cannot perform such duties in a manner which would not endanger his health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of his medical condition, is unable to perform his duties, or cannot perform such duties in a manner which would not endanger his health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of his medical condition, is unable to perform his duties, or cannot perform such duties in a manner which would not endanger his health or safety or the health or safety of others.

(3) Nothing in this part relating to discrimination on account of marital status shall either (i) affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission, or (ii) prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to exclude, expel or restrict from its membership such person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an

application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness or medical condition of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden under this act or because he has filed a complaint, testified or assisted in any proceeding under this part.

(f) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

SEC. 6. Section 1432 of the Labor Code is amended to read:

1432. The provisions of this part shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this part shall be deemed to repeal any of the provisions of the Civil Rights Law or of any other law of this state relating to discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex.

Nothing contained in this part shall be deemed to repeal or affect the provisions of any ordinance relating to such discrimination in effect in any city, city and county, or county at the time this part becomes effective, insofar as proceedings theretofore commenced under such ordinance or ordinances remain pending and undetermined. The respective administrative bodies then vested with the power and authority to enforce such ordinance or ordinances shall continue to have such power and authority, with no ouster or impairment of jurisdiction, until such pending proceedings are completed, but in no event beyond one year after the effective date of this part.

Nothing contained in this part relating to discrimination on account of sex or medical condition shall be deemed to affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan, provided such terms or conditions are in accordance with customary and reasonable or actuarially sound underwriting practices.

CHAPTER 1196

An act to add and repeal Part 4 (commencing with Section 1185) to Division 1 of the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Part 4 (commencing with Section 1185) is added to Division 1 of the Health and Safety Code, to read:

PART 4. RURAL HEALTH SERVICES DEVELOPMENT

CHAPTER 1. LEGISLATIVE INTENT AND GENERAL PROVISIONS

1185. The Legislature makes the following findings and declarations:

(a) There is a maldistribution of health services in California. Most rural areas of the state do not have adequate health services because there are insufficient health personnel and facilities and inadequate transportation to such services.

(b) The lack of health services in rural areas has a negative impact on the health and safety of the public.

(c) Existing public programs to meet the problem of inadequate health services in rural areas are not sufficient in scope nor properly coordinated to significantly improve the availability of health services.

(d) It is unlikely that the situation will improve without substantial state and local action.

It is, therefore, the intent of the Legislature in enacting this part to establish a program of rural health services in the State Department of Health. The purpose of the program is to improve the coordination of existing rural health services and to increase the amount and availability of the services.

The Legislature intends that the program consist of (1) California Health Services Corps in which health personnel are assigned to health care delivery organizations, (2) health services development projects, in which new health care delivery organizations are established, and (3) an organizational unit within the Department of Health to coordinate rural health programs.

1185.1. The State Department of Health shall implement a program to remedy deficiencies in health services in rural areas. The state department shall have responsibility for the following elements:

(a) California Health Services Corps.

(b) California Rural Health Services Development Projects.

(c) Coordination of Rural Health Programs.

1185.2. The director shall administer this part and shall adopt such rules, regulations, and standards as are necessary to implement this part.

1185.3. No services provided under this part shall substitute for current services and obligations of a county including those required by state law.

1185.4. Funds expended pursuant to this part shall be supplemental to those made available by the federal government for the National Health Services Corps and shall not duplicate, nor replace, but may supplement and complement any commitments made by the federal government to provide health personnel as needed.

1185.5. This part shall remain in effect only until January 1, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1979, deletes or extends such date.

CHAPTER 2. CALIFORNIA HEALTH SERVICES CORPS

1186. The director shall establish in the State Department of Health a California Health Services Corps. The purpose of the corps is to make available health personnel to rural areas which are presently receiving inadequate health services. The corps shall consist of physicians and surgeons, dentists, vision care providers, and other health professionals, such as nurse practitioners, physician assistants, nurses, dental hygienists, dental assistants, health educators, nutritionists, dietitians, health and nutrition aides, and such other personnel as the director finds necessary to meet the purposes of the program.

1186.1. Members of the California Health Services Corps may be assigned to the following categories of health services programs:

Any nonprofit clinic or licensed health facility, any health provider or group providers, any county health program or facility, any state health program or facility, and any federal health program.

Assignments may be made to an existing health provider or facility, to a health services development project established pursuant to Chapter 3 (commencing with Section 1187) of this part, or directly to an area in California where health services are currently inadequate.

1186.2. Assignments shall be made in accordance with the following:

(a) The authority of any person to supervise any member of the corps shall be subject to approval by the director.

(b) No member of the corps shall be placed in an assignment without the prior agreement of the person or governing board in charge of the health delivery program to which the corps member is assigned.

(c) Corps members directly assigned to rural areas or to state-operated projects shall be contract employees of the California Health Services Corps. Corps members assigned to projects with a

nonstate provider or facility may be an employee of the provider or facility if specified by contract between the state and the provider or facility. The state shall provide malpractice insurance coverage for all corps personnel.

(d) Local consumers shall be consulted in the placement of California Health Services Corps members.

(e) In making the assignment of a corps member, the director shall seek to match the characteristics and preferences of the member with those of the area, population group, or medical facility to which the member may be assigned to the maximum extent possible in order to increase the probability of the member remaining to serve the area, population group, or medical facility upon completion of his or her assignment period.

1186.3. The director shall, by regulation, specify the salary schedules, other terms and conditions of employment, and reimbursement policies with respect to the employment of corps members which shall be followed by institutions, providers, or programs to which a member of the California Health Services Corps is assigned.

1186.4. Funds expended pursuant to this chapter may be used for the following purposes:

(a) Expenses of the state department in administering this program.

(b) Salaries and employee benefits for members of the California Health Services Corps.

(c) Supplies, equipment, minor capital outlay, and minor renovations.

1186.5. Assignments shall be made by the state department without regard to ability of residents in areas to pay.

Any provider or facility to which a California Health Services Corps member is assigned, and any corps member, shall be required to seek third party reimbursements including Medi-Cal and private insurance for any person served by the corps member. Any such corps member, provider, or facility may be required to provide reports to the department concerning reimbursements and may be required to contribute all or part of the proceeds of reimbursements to the state department for deposit in the State Treasury in accordance with regulations or contracts adopted by the department after regulations have been approved by the Director of the Department of Finance.

1186.6. No corps member may refuse needed service to any person because of inability to pay for such services, and may not refuse services to persons on account of their entitlement to medical benefits under Title XVIII or XIX of the U.S. Social Security Act.

1186.8. The director may, upon request, provide technical assistance to groups preparing applications for assignment of corps personnel.

CHAPTER 3. HEALTH SERVICES DEVELOPMENT PROJECTS

1187. The state department shall plan and put into operation a number of health services development projects. The purpose of the projects shall be to demonstrate effective ways of providing health care services in underserved rural health areas. The director shall make the final decision on approval of a project.

1187.1. Applications may be made for funds for health services development projects and such projects may be initiated and operated by any agency, including, but not limited to:

(a) A community agency, including a National Health Services Corps site.

(b) An ongoing rural health program, including migrant health or Indian health program.

(c) A family practice education program.

(d) A county health department.

(e) The State Department of Health.

(f) Any health facility or clinic.

1187.3. Projects may be in the form of grants or loans provided under contract between the state department and the contracting nonprofit agency, or may be administered directly by the state department.

1187.4. The state department may assist community agencies to develop contract proposals.

1187.5. Project proposals shall be considered which address the health needs of rural populations, including, but not limited to, migratory and other agricultural workers, native Americans, and senior citizens, which have insufficient access to adequate levels of health care services due to geographical isolation or economic factors.

Projects which are approved shall contain one or more of the following elements:

(1) Provides primary health care, including preventive health services and diagnostic, treatment, referral, and followup services.

(2) Provides comprehensive health care, including specialized physician services, inpatient and outpatient facilities, laboratory and X-ray services, home health services, and other specialized services.

(3) Provides emergency medical services designed to meet the special problems of rural isolation.

(4) Provides transportation appropriate to achieving the goal of making health care services available to residents of rural areas.

(5) Provides electronic communication technology to improve health care delivery and emergency health services in the designated rural areas.

(6) Establishes regional health systems, including linkage with both rural and urban health programs and facilities.

(7) Improves the quality of medical care and the administrative capabilities of agencies and management systems in rural areas.

(8) Provides health education programs in the designated rural

areas, including health and nutrition education, and continuing education for health professionals.

(9) Promotes rural nurse practitioner and physician assistants programs and other programs for training and placement of health professionals in the designated areas to respond to rural manpower shortages.

1187.6. Project funding shall be for one year at a time and continuation will depend on progress toward achieving the goals of the project. The director shall make the final decision to continue or discontinue a project. In evaluating the success of a project, the director shall take into account the number of additional persons who are receiving quality health care as a result of the operation of the project and the improvement in health status of the population served by the project.

1187.7. Each applicant shall form an advisory committee for the project. The advisory committee shall participate in all of the following:

(a) Planning the project.

(b) Reviewing the progress of the project.

(c) Proposing changes in the project.

(d) Planning for the continuation of the project after the grant period through self-sufficiency.

At least one-half of the members of the advisory committee shall be consumers, as defined by Public Law 93-641. The advisory committee shall include, where feasible, representatives of the health service agencies, the Seasonal Agricultural Workers Advisory Committee, consumers selected from rural target populations, such as native Americans, senior citizens, Medi-Cal recipients, isolated rural residents, and agricultural and forestry workers, providers from rural areas, and persons with knowledge of rural areas from educational institutions, and state, county, and federal agencies.

1187.8. Each contract for a project shall require the contracting agency to seek third-party reimbursements including Medi-Cal and private insurance for any person served under the contract. Each contract shall require the contracting agency to provide reports to the department on reimbursements and may require the contracting agencies to contribute all or part of the proceeds of reimbursements to the department for deposit in the State Treasury in accordance with regulations to be adopted by the department after such regulations are approved by the Director of Finance.

1187.9. State-operated projects shall be established only in accordance with all of the following:

(a) The health of the population in a rural area would be substantially improved by the establishment of a project.

(b) There exists no local public or nonprofit agency willing and able to undertake the project.

(c) The project contains two or more of the elements specified in Section 1187.5.

Such a project may employ staff, and purchase, rent or lease

supplies and equipment where required. Such a project may also rent or lease land and buildings where required.

CHAPTER 4. COORDINATION OF RURAL HEALTH PROGRAMS

1188. The director shall establish within the state department a single organizational unit for coordination of state efforts in rural health in order to maximize effective use of scarce medical resources and to coordinate efforts to provide health services through the California Health Services Corps and health services development projects with existing program resources, including, but not limited to, migrant health programs, Indian health programs, contract county health services programs, the National Health Service Corps, and other related programs administered by the state department to ensure minimal duplication and maximum effectiveness.

1188.2. The state department shall create an Advisory Committee on Rural Health Services. The committee shall serve for two years and shall consist of 21 members appointed by the director.

At least 11 of the members of the advisory committee shall be consumers, as defined in Public Law 93-641. Of the 10 nonconsumer members of the advisory committee, two members shall be local county health officers. The advisory committee shall include consumers selected from rural target populations, such as native Americans, senior citizens Medi-Cal recipients, isolated rural residents, agricultural and forestry workers, providers from rural areas, and persons with knowledge of rural areas from educational institutions, and state, county, and federal agencies. The members of the advisory committee shall receive no compensation for their services, but shall be reimbursed for their actual, necessary traveling and other expenses incurred in the discharge of their duties.

1188.3. The Health Manpower Policy Commission shall establish a plan which integrates family practice residencies and other health sciences education programs established in rural areas pursuant to the provisions of Article 8 (commencing with Section 31910) of Chapter 5 of Division 22 of the Education Code with the health services provided pursuant to Chapter 3 (commencing with Section 1187) of this part.

1188.4. The Health Manpower Policy Commission shall designate the geographical rural areas within California where unmet priority need for medical services exists.

1188.5. The director shall utilize the authority to establish health manpower pilot projects pursuant to Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of this division to develop personnel with such special health and medical skills as may effectively advance the objectives of this part.

1188.6. Each proposal for health corps personnel or project application under Chapter 3 (commencing with Section 1187) of this part shall be submitted to the appropriate county health officer or district health officer for review and recommendation. Such

recommendation shall be based upon the Health Systems Plan and Annual Implementation Plan as required for that area by Public Law 93-641. Such review and recommendation shall be completed within 30 days of receipt.

1188.7. If the director decides to act contrary to the recommendation of a county or district health officer made pursuant to Section 1188.6, the director shall explain his action in writing to the appropriate board of supervisors.

SEC. 2. The State Department of Health shall submit an interim report on its activities under Part 4 (commencing with Section 1185) of Division 1 of the Health and Safety Code to the Legislature on January 1, 1978, and a final report on March 31, 1979. These reports will include: (a) An evaluation of California Health Services Corps and health services development projects funded in terms of their contribution to meeting important health needs and achieving declared goals, their progress towards self-sufficiency, and their success in utilizing existing health resources; (b) a summary of the measures that the department has taken to coordinate its various health programs as they are relevant to rural areas, and the results these measures have achieved; and (c) a proposed rural health strategy aimed at improving the delivery of health care in rural areas of the state and proposed methods for remedying existing underservices.

SEC. 3. The State Department of Health shall not incur expenses or obligations under Part 4 (commencing with Section 1185) of Division 1 of the Health and Safety Code in excess of the amount appropriated for such purposes.

SEC. 4. There is hereby appropriated from the General Fund to the State Department of Health, for the purposes of Part 4 (commencing with Section 1185) of Division 1 of the Health and Safety Code the sum of four million three hundred thousand dollars ($4,300,000) for expenditure in accordance with the following schedule:

Schedule:

(a) Seven hundred thousand dollars ($700,000) for the time period January 1, 1977, to June 30, 1977, as follows:

(1) California Health Services Corps Program..... $210,142
(2) Health Services Development Projects..... $386,394
(3) Coordination of Rural Health Programs..... $103,464

(b) Two million one hundred thousand dollars ($2,100,000) for the time period from July 1, 1977, to June 30, 1978, as follows:

(1) California Health Services Corps Program..... $878,824
(2) Health Services Development Projects..... $1,009,642
(3) Coordination of Rural Health Programs..... $211,534

(c) One million five hundred thousand dollars ($1,500,000) for the time period from July 1, 1978, to December 31, 1978, as follows:

(1) California Health Services Corps Program..... $458,540
(2) Health Services Development Projects..... $919,494
(3) Coordination of Rural Health Programs..... $121,966

Funds in the above schedule may be transferred between categories of expenditures within each fiscal year, except that no funds may be used to augment expenditures for coordination of rural health programs. However, any such transfer shall be subject to the approval of the Director of the Department of Finance. The Director of the Department of Finance shall approve the transfer of funds, within 30 days after notification in writing of the necessity of the proposed transfer, to the chairman of the committee in the Assembly and in the Senate which considers appropriations and to the Chairman of the Joint Legislative Budget Committee.

Funds appropriated for use in a particular year which are not expended in that year shall be available for expenditure for such purposes in subsequent years.

CHAPTER 1197

An act to amend Section 12303.5 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 12303.5 of the Welfare and Institutions Code is amended to read:

12303.5. Except as provided in Section 12304, no one individual recipient shall receive services under this article, the total cost of which exceeds three hundred fifty dollars ($350) in any one month. The three hundred fifty dollars ($350) maximum specified under this section shall be adjusted annually to reflect cost-of-living changes occurring subsequent to January 1, 1975, as determined under Section 12201.

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 provide for cost-of-living adjustments and continue the current level of in-home supportive services under the state supplementary program, it is necessary that this act take immediate effect.

CHAPTER 1198

An act to amend Sections 31520.2 and 31521 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 31520.2 of the Government Code is amended to read:

31520.2. In any county in which the assets of the retirement system exceed eight hundred million dollars ($800,000,000), the board of supervisors may, by resolution, establish a board of investments. The board shall consist of nine members, one of whom shall be the county treasurer. The second and third members shall be general members of the association elected by the general membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1970 Regular Session, shall also be members of the board of retirement. The fourth member shall be a safety member elected by the safety membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1970 Regular Session, shall also be a member of the board of retirement. The eighth member shall be a retired member of the association elected by the retired membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1976 Regular Session, shall also be a member of the board of retirement. The fifth, sixth, seventh, and ninth members shall be qualified electors of the county who are not connected with county government in any capacity, and shall be appointed by the board of supervisors. They shall also have had significant experience in institutional investing, either as investment officer of a bank, or trust company; or as investment officer of an insurance company, or in an active, or advisory, capacity as to investments of institutional or endowment funds. The first person chosen as a fifth, sixth, or seventh member, shall serve for three years, the second person chosen shall serve a four-year term, and the third person chosen shall serve a two-year term. The ninth member shall be appointed for the balance of a term ending December 31, 1978. Thereafter, all terms of all appointed members shall be three years. The general members, the safety member, and the retired member shall serve on the board of investment until their current term as members of the board of retirement expires.

The board of investment shall be responsible for all investments of the retirement system.

SEC. 2. Section 31521 of the Government Code is amended to read:

31521. The board of supervisors may provide that the fourth and fifth members, and in counties having a board consisting of nine members, the fourth, fifth, sixth, eighth, and ninth members and in counties having a board of investments under Section 31520.2, the fifth, sixth, seventh, eighth, and ninth members of such board of investment, shall receive compensation at a rate of not more than one hundred dollars ($100) a meeting for not more than three meetings per month together with actual and necessary expenses for all members of the board.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement of any local agency 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 1199

An act to amend Sections 216, 224, 225, and 381 of the Elections Code, relating to elections.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 216 of the Elections Code is amended to read:

216. Except as provided in Section 224, if an elector reregisters or transfers his registration from one precinct to another, the former address shall be entered in the prior registration portion of the affidavit, and the former registration shall thereupon be canceled.

SEC. 2. Section 224 of the Elections Code is amended to read:

224. In lieu of executing a new affidavit of registration for a change of address within the county the county clerk shall accept a notice or letter of the change of address signed by a voter as he is registered. County clerks shall provide a form or postage prepaid postcard notice which shall be substantially in the following form:

I, _____, hereby state, that I have moved
(Name as registered)
within _____ County and request that my affidavit of registration be corrected as follows:

Old address: _____
New address: _____

I understand that this notice is effective only for elections held 29 or more days from date of postmark on this card.

The undersigned hereby certifies under penalty of perjury that the information contained herein is correct to the best of my knowledge.

_____

(Sign as registered)

The county clerk shall accept such notifications postmarked not less than 29 days before an election and shall change the address on the voter's affidavit of registration accordingly. Any requests for change of address postmarked less than 29 days prior to an election shall not be applicable to that election but shall apply to all subsequent elections.

SEC. 3. Section 225 of the Elections Code is amended to read:

225. If a sample ballot or other notice of election sent to voters is returned by the post office to the county clerk or other officer charged with the duty of conducting an election because of the removal of the voter from the address to which it was sent, and the county clerk or other officer determines that the voter has moved to a new address in the county, the county clerk or other officer, following the election for which the sample ballot or other notice was sent out, may send a notice to the voter by means of a double postcard. One of the postcards shall inform the voter of the return of the sample ballot or election notice, and shall state that the records on file in the office of the county clerk indicate that the voter is still registered from his old address and that his affidavit of registration has been placed in a suspension file.

The other postcard, which shall be prepared and preaddressed by the clerk with postage paid by the clerk, shall contain blanks wherein the voter may notify the clerk whether his change of address is temporary or permanent and wherein he may sign the postcard. Upon receipt of the postcard indicating that the change of address is permanent, if the signature on the postcard is the same as appears on the affidavit of registration, the clerk shall write on the front or the back of the voter's affidavit the new address and transfer the affidavit to the proper precinct register. If the postcard is not returned to the clerk within 30 days after the date of mailing, the voter's registration shall be removed from the suspension file and canceled.

SEC. 4. Section 381 of the Elections Code is amended to read:

381. Cancellation is made by writing or stamping on the affidavit of registration the word "canceled," the reason the affidavit was canceled, and the date of cancellation.

Whenever a voter transfers his registration from one precinct to another precinct in the same county, or reregisters in another precinct in the same county as shown by the new affidavit of registration, the county clerk shall immediately cancel the affidavit of registration from the precinct in which the voter was first registered, and shall remove the affidavit from the file of uncanceled affidavits.

Except as provided in Section 224, whenever a voter removes from one county to another county and registers in the latter county, the county clerk of the county in which he was first registered, upon being informed of his removal either by the voter personally or by receipt of a notice of reregistration under the provisions of Section 218, shall likewise cancel his registration and remove the affidavit of registration in that county.

All canceled affidavits of registration shall be preserved by the county clerk as required in Section 421.

The county clerk in distributing to each precinct the three indexes of registration, as required by this chapter, shall cross out of those indexes the names of all voters whose affidavits of registration from the precinct have been canceled.

SEC. 5. This act shall not become operative if Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature is also chaptered.

SEC. 6. If Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature is not chaptered, and this bill and Senate Bill No. 1654 of the 1975–76 Regular Session of the Legislature are chaptered, and Senate Bill 1654 repeals and adds Section 225 to the Elections Code, Section 3 of this bill, amending Section 225 of the Elections Code, shall not become operative.

SEC. 7. 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 savings as well as costs in this act, in the aggregate, do not result in significant cost changes.

CHAPTER 1200

An act to amend Sections 1812.54, 1812.57, 1812.64, and 1812.67 of the Civil Code, relating to dance studio lessons contracts.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1812.54 of the Civil Code is amended to read:

1812.54. (a) Every contract for dance studio lessons and other services shall provide that performance of the agreed-upon lessons will begin within 12 months from the date the contract is entered into.

(b) Every contract for dance studio lessons and other services shall further provide:

(1) That such contract may be canceled within 180 days after the date of receipt by the customer of a copy of the contract by written

notice to the other party at the address specified in the contract, and all moneys paid pursuant to such contract shall be refunded within 10 days of receipt of the notice of cancellation, except that payment shall be made for any dance studio lessons and other services received prior to such cancellation.

(2) That such contract may be canceled after 180 days after the date of receipt by the customer of a copy of the contract by written notice to the other party at the address specified in the contract, and the student canceling such contract shall be thereafter entitled to a refund, within 10 days of receipt by the dance studio of notice of cancellation, of all moneys paid pursuant to the canceled contract with the exception that the dance studio shall be entitled to 10 percent of the unpaid balance pursuant to the terms of the canceled contract, and except further that, in addition to the foregoing, payment shall be made for any dance studio lessons and other services received prior to such cancellation.

(c) Every contract for dance studio lessons and other services shall contain a written statement of the hourly rate charged for each type of lessons for which the student has contracted. If the contract includes dance studio lessons which are sold at different per-hour rates, the contract shall contain separate hourly rates for each different type of lessons sold. All other services for which the student has contracted which are not capable of a per-hour charge shall be set forth in writing in specific terms. Such statement shall be contained in the dance studio contract before the contract is signed by the buyer.

(d) Every dance studio subject to the provisions of Sections 1812.64 to 1812.66, inclusive, shall include in every contract for dance studio lessons or other services a statement that the studio is bonded and that information concerning the bond may be obtained by writing to the office of the Secretary of State, 111 Capitol Mall, Sacramento, California 95814. If the studio has elected to make a cash deposit in lieu of procuring a bond, the contract shall contain a description of the cash deposit.

SEC. 2. Section 1812.57 of the Civil Code is amended to read:

1812.57. (a) Every contract for dance studio lessons and other services shall contain a clause providing that if, by reason of death or disability, the person agreeing to receive lessons and other services is unable to receive all lessons and other services for which he has contracted, he and his estate shall be relieved from the obligation of making payment for lessons and other services other than those received prior to death or the onset of disability, and that if he has prepaid any sum for lessons and other services so much of such sum as is allocable to lessons and other services he has not taken shall be promptly refunded to him or his representative.

(b) Notwithstanding the provisions of any contract to the contrary, whenever the contract price is payable in installments and the buyer is relieved from making further payments or entitled to a refund under this section, the buyer shall be entitled to receive a

refund or refund credit of so much of the cash price as is allocable to the lessons or other services not actually received by the buyer. The refund of the finance charge shall be computed according to the "sum of the balances method," also known as the "Rule of 78".

SEC. 3. Section 1812.64 of the Civil Code is amended to read:

1812.64. Every dance studio shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be 25 percent of the dance studio's gross income from the studio business in this state during the studio's last fiscal year, except that the principal sum of the bond shall not be less than ten thousand dollars ($10,000) in the first or any subsequent year of operations.

A copy of such bond shall be filed with the Secretary of State, together with a declaration under penalty of perjury signed by the owner of such studio stating the dance studio's gross income from the dance studio business in this state during the last fiscal year. The information contained in such declaration shall not be subject to public inspection. If the person in whose name the bond is issued severs his relationship with the bonded dance studio, the new owner shall, as a condition of doing business, notify the Secretary of State of the change of ownership and of proof of compliance with Sections 1812.64 to 1812.66, inclusive.

SEC. 4. Section 1812.67 of the Civil Code is amended to read:

1812.67. Sections 1812.64 to 1812.66, inclusive, do not apply to any dance studio which requires or receives less than fifty dollars ($50) in advance payments from or on behalf of each student for dance lessons or other services which are to be rendered by the studio in the future and such advance payments are not required or received by the studio from each student more frequently than once every 30 days.

CHAPTER 1201

An act to amend Section 155.13 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 155.13 of the Revenue and Taxation Code is amended to read:

155.13. Notwithstanding any provision of law to the contrary, the board of supervisors may, in any year, by ordinance, provide that every person who at 12:01 a.m. on the immediately preceding March 1 was the owner of, or had in his possession, or under his control, any taxable property, or who acquired such property after such date and

is liable for the taxes thereon for the fiscal year commencing the immediately following July 1, which property was thereafter damaged or destroyed, without his fault, by a misfortune or calamity, may, within 60 days of such misfortune or calamity, apply for reassessment of such property by delivering to the assessor a written application showing the condition and value, if any, of the property immediately before and after the damage or destruction, which damage or destruction must be shown therein to be in excess of five thousand dollars ($5,000). The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

Upon receiving a proper application, the assessor shall verify the amounts claimed on the application in the before and after condition. The assessor shall then compute a percentage relationship of loss and reduce the current assessed value by that percentage. The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged or destroyed value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage or destruction.

If the amount of damage or destruction, as verified by the assessor is not at least five thousand dollars ($5,000), no adjustment shall be made to said roll and no taxes shall be canceled or refunded. The reassessments resulting from those reductions, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, said reassessments shall not be subject to review except by a court of competent jurisdiction.

If no such application is made and the assessor determines that a property has suffered damage or destruction caused by misfortune or calamity, which may qualify the property owner for relief under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the assessor. Upon receipt of properly completed, timely filed application, the assessor will proceed to reassess property in the same manner as required above.

The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of its original assessment shall be applied to the amount of the reassessment determined in accordance

03522 28 10 265 830

with this section. In the event that the resulting figure is less than the tax theretofore computed, the tax shall be determined as follows:

(a) With respect to property on the secured roll a prorated portion of the tax due on the property as originally assessed at the rate established for property on the secured roll for the current fiscal year, such proration to be determined on the basis of the number of months in the year during which the property was in an undamaged condition plus a proration of the tax due on the property as reassessed in its damaged or destroyed condition at the rate established for property on the secured roll for the balance of the fiscal year.

(b) With respect to property on the unsecured roll, he shall be liable for a prorated portion of the tax computed on the original assessment of the property and a prorated portion of the tax computed on the reassessment of the property as determined in the preceding paragraph.

Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9 of this division, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5.

The assessment of the property, in its damaged condition, as determined by this section, shall be reviewed at the lien date next following the date of the misfortune or calamity and shall be assessed in the same manner as prescribed by law for any other assessable property.

This section applies to all counties, whether operating under a charter or under the general laws of this state.

CHAPTER 1202

An act to amend Section 2881.1 of the Business and Professions Code, and to add Sections 1439.1, 1439.2, 1439.3, 1439.4, 1439.5, 1439.6, 1439.7, and 1439.8 to the Health and Safety Code, relating to nursing, and making an appropriation therefor.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 2881.1 of the Business and Professions Code is amended to read:

2881.1. The board shall deny the application for accreditation made by, and shall revoke the accreditation given to, any school of vocational nursing which does not give to student applicants credit, in the field of nursing, for previous education and the opportunity to obtain credit for other acquired knowledge by the use of challenge examinations or other methods of evaluation.

The board shall prescribe, by regulation, the education for which credit is to be given and the amount of credit which is to be given for each type of education, including the amount of credit to be given to a certified nurse assistant and to a nurse assistant who has provided direct nursing services in health facilities.

SEC. 2. Section 1439.1 is added to the Health and Safety Code, to read:

1439.1. (a) The Legislature finds that the quality of patient care in long-term health facilities is dependent upon the competence of the personnel who staff its facilities. The Legislature further finds that direct patient care in long-term health care facilities is currently rendered largely by persons without adequate training. To assure the availability of trained personnel in long-term health care facilities, the Legislature intends that all such facilities in this state participate in approved training programs established under this chapter.

(b) For the purpose of this chapter:

(1) "Nurse assistant" means any unlicensed aide, assistant, or orderly, who performs nursing services directed at the safety, comfort, personal hygiene, or protection of patients in a long-term health care facility.

(2) "Approved training program" means a program for the training of nurse assistants which meets the criteria established by Section 1439.2.

(3) "Certified nurse assistant" means a nurse assistant who is certified as having completed the requirements of Section 1439.3.

SEC. 3. Section 1439.2 is added to the Health and Safety Code, to read:

1439.2. On and after July 1, 1977, a long-term health care facility shall adopt an approved training program which meets standards established by the state department. The approved training program shall consist of at least the following:

(a) An orientation program to be given to newly employed nurse assistants prior to providing direct patient care in long-term health care facilities.

(b) A precertification training program consisting of at least 50 classroom hours of training on basic nursing skills, patient safety and rights, and the social and psychological problems of patients, and at least 100 hours supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as nurse assistants under the supervision of either the director of nurse training or a licensed nurse.

(c) Continuing in-service training to assure continuing competency in existing and new nursing skills.

SEC. 4. Section 1493.3 is added to the Health and Safety Code, to read:

1439.3. A nurse assistant employed by a long-term health care facility shall be certified by the operator of the approved training program which the nurse assistant has completed if the nurse aide:

(a) Completes the precertification training program specified in

subdivision (b) of Section 1439.2 and passes an examination demonstrating competency approved by the state department; or

(b) Has been employed as a nurse assistant by a long-term health care facility for a period of two years or more, has completed at least six hours of training concerning social and psychological problems of patients, and passes an examination demonstrating competency prior to July 1, 1978, approved by the state department; or

(c) Has completed a preemployment training program approved by the state department, and passes an examination demonstrating competency approved by the state department.

SEC. 5. Section 1439.4 is added to the Health and Safety Code, to read:

1439.4. Every long-term health care facility shall designate a licensed nurse as a director of nurse training who shall be responsible for the management of the approved training program.

SEC. 6. Section 1439.5 is added to the Health and Safety Code, to read:

1439.5. On or before April 1, 1977, the state department shall publish regulations concerning the following:

(a) Standards for approved programs which provide preemployment training to nurse assistants.

(b) Standards for approved training programs.

(c) Standards for certification examinations.

The state department shall use such standards in approving programs and examinations.

SEC. 7. Section 1439.6 is added to the Health and Safety Code, to read:

1439.6. Approved training programs shall be conducted during the normal working hours of the nurse assistant unless the nurse assistant receives at least the normal hourly wage for any additional time spent in the training program.

On or after July 1, 1978, no nurse assistant may be employed by a long-term health care facility unless he has been certified pursuant to this part or is enrolled in an approved precertification training program which requires completion not more than six months from the date of employment.

SEC. 8. Section 1439.7 is added to the Health and Safety Code, to read:

1439.7. The state department shall, through the Medi-Cal program, provide rate adjustments to long-term health care facilities for the portion of additional costs attributable to the requirements of Sections 1439.2, 1439.3, and 1439.4 with respect to Medi-Cal patients. The portion of such additional costs attributable to Medi-Cal shall be the same as the ratio of Medi-Cal patients to total patients in the facility. Such rate adjustments shall also include provisions for an increase in wages for nurse assistants who receive certificates pursuant to Section 1439.3. The rate adjustments shall commence no later than July 1, 1977.

SEC. 9. Section 1439.8 is added to the Health and Safety Code, to read:

1439.8. The state department shall assign sufficient qualified employees to supervise and evaluate training programs required by this chapter.

SEC. 10. The sum of one million one hundred fifty-six thousand dollars ($1,156,000) is hereby appropriated from the General Fund in accordance with the following schedule:

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.	$18,000
(b) To the State Department of Health for expenditure for carrying out the purposes of this act without regard to fiscal years	$1,138,000

CHAPTER 1203

An act to amend Section 14186 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 14186 of the Education Code is amended to read:

14186. If on the date of death the member has met the following conditions:

(a) Death occurred after June 30, 1972, and

(b) Has one or more years of credited service, and

(c) If there has been a break in service of more than one year, one-half year of credited service has been performed after the end of last break, and

(d) The provisions of Sections 14180 and 14182 have been met, or

(e) Lacking the above, was a disabilitant receiving a disability allowance which began to accrue after June 30, 1972; a family allowance shall be paid subject to the provisions of this article and Section 14284 as follows:

(1) To the surviving spouse, having care of children there shall be paid an amount, in monthly installments, equal to 40 percent of the deceased's highest average monthly salary earned during any 12

consecutive months within the 36 months immediately preceding death, plus 10 percent of such salary for each child, up to a maximum of 90 percent of such salary, or

(2) If there is no surviving spouse or the surviving spouse subsequently dies and there are children who qualify under Section 13830, there shall be paid to the trustee of the estate of surviving children under 18 as designated by the member, or the guardian of such children under age 18 if no trustee is designated, or to the child if over age 18, an amount payable in monthly installments equal to 10 percent of the deceased's highest earned annual salary during any 12 consecutive months within the 36 months immediately preceding death, up to a maximum of 50 percent of such salary. If there are more than five such children, they shall share equally in the maximum of 50 percent, or

(3) If there is no allowance being paid under paragraphs (1) or (2) the unremarried spouse age 60 or over shall receive a monthly payment equal to the amount which would have been payable to such spouse based on projected service and projected earned salary, had the member continued service to age 60 and at that time elected option number 3. The allowance payable under this paragraph shall be increased by application of the benefit improvement factor for time which elapses between the date the member would have reached age 60 and the date the allowances commence to accrue under this paragraph. For the calculation of the benefit, it shall be considered that the member died on the June 30 following the actual date of death and the spouse reached age 60 on the June 30 prior to attainment of that age, but the allowance shall not begin to accrue until the spouse attains age 60.

(4) If there is no surviving spouse or children entitled to allowances under paragraph (2), the dependent parent, age 60, or upon attainment of that age, shall receive an allowance based on projected service and projected earned salary equal to the amount which would have been paid if the member had retired at age 60 and elected option number three. If there are two parents who qualify under this paragraph the total benefit will be computed on the assumption that the youngest parent is the beneficiary, and the total shall be divided equally for so long as there are two such qualifying parents. Otherwise, the total amount shall be payable to the one who qualifies.

Allowances payable under this section are in lieu of the death benefit payable under subsection (1) of subdivision (b) of Section 14180 irrespective of the beneficiary designated to receive that benefit.

SEC. 1.5. Section 14186 of the Education Code is amended to read:

14186. If on the date of death the member had met the following conditions:

(a) Death occurred after June 30, 1972, and

(b) Had one or more years of credited service, and

(c) If there had been a break in service of more than one year, one-half year of credited service had been performed after the end of last break, and

(d) The provisions of Sections 14180 and 14182 have been met, or

(e) Lacking the above, was a disabilitant receiving a disability allowance which began to accrue after June 30, 1972; a family allowance based upon projected salary shall be paid subject to the provisions of this article and Section 14284 as follows:

(1) To the surviving spouse, having financial responsibility for at least one dependent child who qualifies under Section 13830 there shall be paid an amount, in monthly installments, equal to 40 percent of the deceased's final compensation, plus 10 percent of such final compensation for each child, up to a maximum of 90 percent of such final compensation. If there are children who are not in the care of the surviving spouse, the amount of the allowance in excess of 40 percent of the final compensation shall be divided equally among all children and is payable to the trustee of the estate of such children under age 18 or their guardian if no trustee is designated or to the children age 18 or over, or

(2) If there is no surviving spouse or the surviving spouse subsequently dies or remarries and there are children who qualify under Section 13830, there shall be paid to the trustee of the estate of surviving children under 18 as designated by the member, or the guardian of such children under age 18 if no trustee is designated, or to the child if over age 18, an amount payable in monthly installments equal to 10 percent of the deceased's final compensation, up to a maximum of 50 percent of such final compensation. If there are more than five such children, they shall share equally in the maximum of 50 percent, or

(3) If there is no allowance being paid under paragraphs (1) or (2) the unremarried spouse age 60 or over shall receive a monthly payment equal to the amount which would have been payable to such spouse based on projected service and projected salary, had the member continued service to age 60 and at that time elected option number three. The allowance payable under this paragraph shall be increased by application of the benefit improvement factor for time which elapses between the date the member would have reached age 60 and the date the allowances commence to accrue under this paragraph. For the calculation of the benefit, it shall be considered that the member died on the June 30 following the actual date of death and the spouse reached age 60 on the June 30 prior to attainment of that age, but the allowance shall not begin to accrue until the spouse attains age 60.

(4) If there is no surviving spouse or children entitled to allowances under paragraphs (1), (2), or (3) at the time of the member's death, the dependent parent, age 60, or upon attainment of that age, shall receive an allowance based on projected service and projected salary equal to the amount which would have been paid if the member had retired at age 60 and elected option number

three. If there are two parents who qualify under this paragraph the total benefit will be computed on the assumption that the youngest parent is the beneficiary, and the total shall be divided equally for so long as there are two such qualifying parents. Otherwise, the total amount shall be payable to the one who qualifies.

The benefits payable under paragraphs (1) and (2) because of the death of a disabilitant shall be based upon projected salary.

Allowances payable under this section are in lieu of the death benefit payable under subsection (1) of subdivision (b) of Section 14180 irrespective of the beneficiary designated to receive that benefit, except that if there are no children who qualify for an allowance under Section 13830, a spouse or the dependent parent or parents may elect, prior to the receipt of the first payment under paragraph (3) or (4), to receive the accumulated contributions in a lump sum subject to a reduction for any payments made from the account for any prior qualified persons.

SEC. 2. It is the intent of the Legislature, if this bill and Assembly Bill No. 3513 are both chaptered and become effective January 1, 1977, both bills amend Section 14186 of the Education Code, and this bill is chaptered after Assembly Bill No. 3513, that the amendments to Section 14186 proposed by both bills be given effect and incorporated in Section 14186 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 3513 are both chaptered and become effective January 1, 1977, both amend Section 14186, and this bill is chaptered after Assembly Bill No. 3513, in which case Section 1 of this act shall not become operative.

CHAPTER 1204

An act to amend Sections 29140 and 29142 of, to add Sections 28769.5 and 28842 to, and to repeal Sections 29140.5, 29140.6, and 29144 of, the Public Utilities Code, relating to the San Francisco Bay Area Rapid Transit District.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. It is the intent of the Legislature to emphasize the financial crisis that faces the San Francisco Bay Area Rapid Transit District and that all funds resulting from extension of the one-half of 1 percent transactions and use tax to June 30, 1978, be used in a fiscally responsible manner, and that this act requires continuation of the existing levels of service as of May 1, 1976, and that such funds shall not be used for the extension of district services, unless the ratio of the amount of the fare revenues resulting from the extension of

services to the cost of providing such services is at least equal to such ratio of present services within three months of commencing such services. Extension of the existing level of service may commence only on or after July 1, 1977, upon a finding by the district board of directors that revenues provided on this act are sufficient to defray the cost of such extension, and in addition, upon a finding by the district general manager, after seeking advice from the Public Utilities Commission, that the extension of service will not erode the operational reliability of the district's transit system. Thirty days prior to the extension, both the board and the general manager shall submit a report to the Legislature containing an analysis which includes sufficient detail to support their respective findings.

It is further the intent of the Legislature that the district critically examine existing services and make a diligent effort to eliminate marginally cost-effective services.

It is further the intent of the Legislature that the district fulfill its primary responsibility and mandate of providing safe, on-time, reliable service and that the district place a high priority on those actions, including, but not limited to, compliance with general orders of the Public Utilities Commission relating to system safety and reliability, necessary to improve its records to date in this regard.

It is further the intent of the Legislature that annual increases in the controllable operating costs, excluding those increases due to extensions of services that do not exceed the fare revenues from the extensions of services, of the district shall not exceed the concurrent increases in the cost of living as reflected in the Consumer Price Index, as published by the United States Bureau of Labor Statistics.

SEC. 2. Section 28769.5 is added to the Public Utilities Code, to read:

28769.5. The board shall operate an automated management information system to enable it to submit a report monthly to the Metropolitan Transportation Commission and the office of the Legislative Analyst on the district's expenditures as compared to the projected expenditures in its budget, and the board shall submit such report to the commission and that office.

SEC. 3. Section 28842 is added to the Public Utilities Code, to read:

28842. Commencing July 1, 1977, and each quarter thereafter, the Legislative Analyst shall submit a report to the Legislature on the expenditures of the district as compared to the projected expenditures in its budget, together with his comments and recommendations on any variance between the actual and projected expenditures.

SEC. 4. Section 29140 of the Public Utilities Code is amended to read:

29140. The board shall, by ordinance, impose transactions and use taxes in conformity with Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code until June 30, 1978, for the purposes specified in Section 29142.

SEC. 5. Section 29140.5 of the Public Utilities Code is repealed.

SEC. 6. Section 29140.6 of the Public Utilities Code is repealed.

SEC. 7. Section 29142 of the Public Utilities Code is amended to read:

29142. (a) Revenues derived from the transactions and use taxes, not to exceed an aggregate principal amount of one hundred fifty million dollars ($150,000,000), plus the costs payable by the district to the State Board of Equalization for preparatory costs and for its services in connection with such taxes and plus the costs of issuance of, and interest payments on, bonds or notes secured by such revenues, shall be used for the planning, acquiring, and constructing of the district's approximately 75-mile system, including the San Francisco-Oakland Rapid Transit Tube and any and all works, structures, property, rolling stock, or other facilities of any kind which the district is authorized to acquire, construct, or complete.

(b) Revenues in excess of the amount specified in subdivision (a) shall be used for operational purposes, the liquidation of operational deficits, and the payment of principal and interest on negotiable bonds issued pursuant to subdivision (c).

(c) To finance the operation of its rapid transit system during the 1974–75 fiscal year, the district may issue negotiable bonds in an amount not to exceed sixteen million dollars ($16,000,000) in anticipation of the revenues specified in subdivision (b). However, upon a determination by the board that the issuance of sixteen million dollars ($16,000,000) in negotiable bonds, together with other funds available to the district, provide insufficient funds for the operation of the district during the 1975–76 fiscal year, the district may issue additional negotiable bonds in an amount not exceeding eight million dollars ($8,000,000). The district may also issue additional negotiable bonds in an amount not exceeding one million three hundred thousand dollars ($1,300,000) if the board determines that otherwise insufficient funds are available to the district for its operation during the 1976–77 fiscal year. The district shall pay the principal and interest on such bonds only from such revenues. Interest on such bonds may be funded, and paid from the proceeds of such bonds, for period of not to exceed two years from the date of such bonds. The board, by resolution, shall determine the form, denomination, maturities, interest rates, and all other terms and conditions relative to the issuance of such negotiable bonds.

SEC. 8. Section 29144 of the Public Utilities Code is repealed.

SEC. 9. (a) The Metropolitan Transportation Commission, in coordination with the transit operators in the San Francisco Bay area, shall develop and submit a report to the Legislature, not later than January 10, 1977, on the near- and long-term financing requirements of public transit within the area, including recommendations on resource allocation criteria and procedures and on new sources of revenues. The Legislative Analyst shall update his report entitled Financing Public Transportation in the San Francisco Bay Area, dated November 1975, and submit the updated version to the

Legislature by January 10, 1977.

(b) In addition, the Legislative Analyst, in cooperation with the Metropolitan Transportation Commission and the Public Utilities Commission, shall determine the amount of funds available for system modifications and improvements, the total estimated cost, and the time required to achieve the level of reliability and safety necessary for the operations of the San Francisco Bay Area Rapid Transit District, as determined by the Public Utilities Commission. The Legislative Analyst shall submit his findings and recommendations to the Legislature on or before June 30, 1977.

SEC. 10. 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 self-financing authority is provided in this act to cover such costs.

CHAPTER 1205

An act to add Section 42007 to the Vehicle Code, relating to courts.

[Approved by the Governor September 22, 1976 Filed with Secretary of State September 22, 1976]

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

SECTION 1. Section 42007 is added to the Vehicle Code, to read:

42007. In addition to the fees authorized or required by other provisions of law, and upon the order of a majority or sole judge of a municipal or justice court, the clerk of the court shall collect a uniform fee from every person ordered to attend a school pursuant to Section 42005 or attending any other court-supervised program of driving instruction, which shall be commensurate with the cost incurred by the court in carrying out the provisions of Section 42005 or in supervising any such other program, but which may not exceed five dollars ($5) per person. Such fee may not include the cost, or any part thereof, of instruction offered at such a school or in such other program.

Revenues derived from such fee shall be deposited by the clerk in accordance with Section 68084 of the Government Code. The county board of supervisors may by resolution authorize disbursement of such funds as the public interest requires.

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 this act authorizes a revenue source, or makes local governments eligible for a revenue source, that may be utilized by local governments to cover the cost of the mandate.

03917 28 10480 873

CHAPTER 1206

An act to amend Section 9889.18 of the Business and Professions Code, to amend Sections 39042, 39058, 43100, 43102, 43103, 43104, 43105, and 43106 of, to add Sections 39042.5, 39055.5, and 43016 to, and to add Article 1.5 (commencing with Section 43150) to Chapter 2 of Part 5 of Division 26 of, the Health and Safety Code, and to amend Sections 4000, 4000.1, 4000.2, and 24007 of the Vehicle Code, relating to air pollution, and making an appropriation therefor.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 9889.18 of the Business and Professions Code is amended to read:

9889.18. (a) Whenever a licensed installer in a licensed station, in conformity with the instructions of the director, inspects or repairs a motor vehicle for pollution control, or installs a motor vehicle pollution control device, and determines that the vehicle conforms with the requirements of Section 27157 or 27157.5 of the Vehicle Code or Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, and the rules and regulations of the State Air Resources Board, a certificate of compliance shall be issued to the owner or driver of the vehicle. The certificate of compliance shall contain provisions for the date of issuance, the make and registration number of the vehicle, the name of the owner of the vehicle, and the official designation of the station. It is unlawful for any person, other than a licensed installer in a licensed station, to sign or issue a certificate of compliance required by this article.

(b) A licensed installer shall not issue a certificate of compliance for any motor vehicle or motor vehicle with a motor vehicle engine which is not certified by the state board, and which is the subject of a transaction prohibited by Section 43152 or 43153 of the Health and Safety Code.

(c) With respect to a motor vehicle or motor vehicle with a new motor vehicle engine not certified by the state board which is in violation of Article 1.5 (commencing with Section 43150) of Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, but which is not the subject of a transaction prohibited by Section 43152 or 43153 of that code, a licensed installer shall issue a certificate of noncompliance. The certificate of noncompliance shall contain the same information as a certificate of compliance but shall also indicate the basis for nonconformity and be of a distinctive form or style. The licensed installer shall send copies of any such certificate of noncompliance issued to the bureau, and the bureau shall forward copies of such certificates to the State Air Resources Board.

SEC. 2. Section 39042 of the Health and Safety Code is amended to read:

39042. "New motor vehicle" means a motor vehicle, the equitable or legal title to which has never been transferred to an ultimate purchaser.

SEC. 3. Section 39042.5 is added to the Health and Safety Code, to read:

39042.5. "New motor vehicle engine" means a new engine in a motor vehicle.

SEC. 4. Section 39055.5 is added to the Health and Safety Code, to read:

39055.5. "Ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

SEC. 5. Section 39058 of the Health and Safety Code is amended to read:

39058. "Used motor vehicle" means any motor vehicle which is not a new motor vehicle.

SEC. 6. Section 43016 is added to the Health and Safety Code, to read:

43016. Any person who violates any provision of this part, or any order, rule, or regulation of the state board adopted pursuant to this part, and for which violation there is not provided in this part any other specific civil penalty or fine, shall be subject to a civil penalty of not to exceed five hundred dollars ($500) per vehicle. Any penalty collected pursuant to this section shall be payable to the State Treasurer for deposit in the Air Pollution Control Fund.

SEC. 7. Section 43100 of the Health and Safety Code is amended to read:

43100. The state board may certify new motor vehicles and new motor vehicle engines pursuant to this article.

SEC. 8. Section 43102 of the Health and Safety Code is amended to read:

43102. No new motor vehicle or new motor vehicle engine shall be certified by the state board, unless such vehicle or engine, as the case may be, meets the emission standards adopted by the state board pursuant to Section 43101 under test procedures adopted by the state board pursuant to Section 43104.

SEC. 9. Section 43103 of the Health and Safety Code is amended to read:

43103. In the case of a new motor vehicle equipped with an engine required to use unleaded gasoline fuel, the vehicle shall be certified by the state board only if its engine is designed to operate satisfactorily on a gasoline having a research octane number not greater than 91.

SEC. 10. Section 43104 of the Health and Safety Code is amended to read:

43104. For the certification of new motor vehicles or new motor vehicle engines, the state board shall adopt, by regulation, test

procedures to determine whether such vehicles or engines are in compliance with the emission standards established pursuant to Section 43101. The state board shall base its test procedures on federal test procedures or on driving patterns typical in the urban areas of California.

SEC. 11. Section 43105 of the Health and Safety Code is amended to read:

43105. No new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine required pursuant to this part to meet the emission standards established pursuant to Section 43101 shall be sold to the ultimate purchaser, offered or delivered for sale to the ultimate purchaser, or registered in this state if the manufacturer has violated emission standards or test procedures and has failed to take corrective action, which may include recall of vehicles or engines, specified by the state board in accordance with regulations of the state board. If a manufacturer contests the necessity for, or the scope of, a recall of vehicles or engines ordered pursuant to this section and so advises the state board, the state board shall not require such recall unless it first affords the manufacturer the opportunity, at a public hearing, to present evidence in support of the manufacturer's objections. If a vehicle or engine is recalled pursuant to this section, the manufacturer shall make all necessary corrections specified by the state board without charge to the registered owner of the vehicle or vehicle with such engine or, at the manufacturer's election, reimburse the registered owner for the cost of making such necessary corrections.

The procedures for determining, and the facts constituting, compliance or failure of compliance shall be established by the state board.

SEC. 12. Section 43106 of the Health and Safety Code is amended to read:

43106. Each new motor vehicle or engine required pursuant to this part to meet the emission standards established pursuant to Section 43101 shall be, in all material respects, substantially the same in construction as the test motor vehicle or engine, as the case may be, which has been certified by the state board in accordance with this article. However, changes with respect to new motor vehicles or engines previously certified may be made if such changes do not increase emissions above the standards under which those motor vehicles or engines, as the case may be, were certified and are made in accordance with procedures specified by the state board.

SEC. 13. Article 1.5 (commencing with Section 43150) is added to Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, to read:

Article 1.5. Prohibited Transactions

43150. The Legislature finds and declares that the people of this state, in order to achieve the purposes of this part, have a special interest in assuring that only those new motor vehicles and new motor vehicle engines which meet this state's stringent emission standards and test procedures, and which have been certified pursuant to this chapter, are used or registered in this state. The Legislature also finds and declares that this special interest must be protected in a manner which will not unduly or unreasonably infringe upon the right of the people of this state and other states to travel and do business interstate.

43151. No person who is a resident of, or doing business in, this state shall import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use or registration in this state with the intent of avoiding compliance with the emission standards, test procedures, or certification requirements applicable to new motor vehicles or new motor vehicle engines under this chapter. No person shall attempt or assist in any such action.

43152. No person who is engaged in this state in the business of selling to an ultimate purchaser, or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently import, deliver, purchase, receive, or otherwise acquire a new motor vehicle, new motor vehicle engine, or vehicle with a new motor vehicle engine which is intended for use primarily in this state, for sale or resale to an ultimate purchaser who is a resident of or doing business in this state, or for registration, leasing or rental in this state, which has not been certified pursuant to this chapter. No person shall attempt or assist in any such act.

43153. No person who is engaged in this state in the business of selling to an ultimate purchaser or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently sell, or offer to sell, to an ultimate purchaser who is a resident of or doing business in this state, or lease, offer to lease, rent, or offer to rent, in this state any new motor vehicle, new motor vehicle engine, or vehicle with a new motor vehicle engine, which is intended primarily for use or for registration in this state, and which has not been certified pursuant to this chapter. No person shall attempt or assist in any such action.

43154. (a) Any person who violates any provision of this article shall be liable for a civil penalty not to exceed five thousand dollars ($5,000) per vehicle.

(b) Any action to recover a penalty under this section shall be brought in the name of the people of the State of California in the superior court of the county where the violation occurred, or in the county where the defendant's residence or principal place of

business is located, by the Attorney General on behalf of the state board, in which event all penalties adjudged by the court shall be deposited in the Air Pollution Control Fund, or by the district attorney or county attorney of such county, or by the city attorney of a city in that county, in which event all penalties adjudged by the court shall be deposited with the treasurer of the county or city, as the case may be.

43155. An action brought pursuant to Section 43154 to recover such civil penalties shall take special precedence over all other civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

SEC. 14. Section 4000 of the Vehicle Code is amended to read:

4000. (a) No person shall drive, move, or leave standing upon a highway any motor vehicle, trailer, semitrailer, pole or pipe dolly, logging dolly, or auxiliary dolly unless it is registered and the appropriate fees have been paid under this code.

(b) No person shall drive, move, or leave standing upon a highway any motor vehicle, as defined in Chapter 2 (commencing with Section 39010), Part 1, Division 26 of the Health and Safety Code, which has been registered in violation of Part 5 (commencing with Section 43000) of that Division 26.

(c) The provisions of this section shall not apply, following payment of fees due for registration, during such time that registration and transfer is being withheld by the Department of Motor Vehicles pending the investigation of any use tax due under the provisions of the Revenue and Taxation Code.

(d) When a vehicle is towed by a tow car on order of a sheriff, marshal, or other official acting pursuant to a court order or on order of a peace officer acting pursuant to the provisions of Chapter 10 (commencing with Section 22650) of Division 11, the provisions of subdivision (a) of this section shall not apply.

SEC. 15. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) The department shall require, pursuant to this section or regulations of the State Air Resources Board adopted pursuant to Section 43655 of the Health and Safety Code, upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) 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 Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or a certificate of noncompliance, as appropriate.

For the purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010),

Part 1, Division 26 of the Health and Safety Code shall control.

The provisions of this section shall not apply to a transfer of ownership and registration when the transferor is either the parent, grandparent, child, or spouse of the transferee, when a vehicle registered to a sole proprietorship is transferred to such proprietor as owner, or when the transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle.

(b) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from the provisions of subdivision (a) as it deems necessary, and shall notify the department of such action.

SEC. 16. Section 4000.2 of the Vehicle Code is amended to read:

4000.2. The department shall require upon registration of a motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, previously registered outside this state, 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 that part, or a certificate of noncompliance, as appropriate.

For the purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010), Part 1, Division 26 of the Health and Safety Code shall control.

SEC. 17. Section 24007 of the Vehicle Code is amended to read:

24007. (a) No dealer or person holding a retail seller's permit shall sell a new or used vehicle which is not in compliance with the provisions of this code and department regulations adopted pursuant to this code unless the vehicle is (1) sold to another dealer, (2) sold for the purpose of being wrecked or dismantled, or (3) sold exclusively for off-highway use.

(b) No person shall sell, or offer or deliver for sale, to the ultimate purchaser a new or used motor vehicle, as those terms are defined in Chapter 2 (commencing with Section 39010), Part 1, Division 26 of the Health and Safety Code, subject to Part 5 (commencing with Section 43000) of that Division 26 which is not in compliance with the provisions of Part 5 and the rules and regulations of the State Air Resources Board, unless the vehicle is either (1) sold to a dealer, or (2) sold for the purpose of being wrecked or dismantled. A dealer shall, with each application for initial registration of a new motor vehicle or transfer of registration of a motor vehicle subject to Part 5, transmit to the Department of Motor Vehicles, 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 certified device or devices which are in proper operating condition and which are in compliance with the provisions of Part 5 and the rules and regulations of the board.

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 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 1207

An act to add Section 1276.5 to the Health and Safety Code and Article 2.5 (commencing with Section 14075) to Chapter 7 of Part 3 of Division 9 of, and to add and repeal Article 2.6 (commencing with Section 14090) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1276.5 is added to the Health and Safety Code, to read:

1276.5. The department shall adopt regulations setting forth the minimum number of equivalent nursing hours per patient required in skilled nursing and intermediate care facilities.

For the purposes of this section "nursing hours" means the number of hours of work performed per patient day by aides, nursing assistants, or orderlies plus two times the number of hours worked per patient day by licensed nurses (except directors of nursing in facilities of 60 or larger capacity) who perform direct nursing services for patients in skilled nursing and intermediate care facilities.

SEC. 2. Article 2.5 (commencing with Section 14075) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 2.5. Physicians Costs

14075. The Legislature intends that Medi-Cal recipients have reasonable access to medical care services and especially to primary and maternity care services. In order to obtain such access, the

Legislature intends that, to the extent feasible and permitted by federal law, physicians be reimbursed equally statewide for comparable services, at a rate sufficient to provide Medi-Cal recipients with such reasonable access, and also intends that higher rates be paid, relatively, for providing primary and maternity care services.

14076. As used in this article:

(a) "Medically underserved area" means a county, standard metropolitan statistical area, or other area within the state in which the director determines that Medi-Cal recipients do not have access to an adequate number of physicians.

(b) "Primary care services" means those general medical services, as determined by the director, which are not performed on an emergency, referral, or consulting basis.

(c) "Maternity care services" are prenatal, postnatal, perinatal, and neonatal services.

14077. Notwithstanding any other provisions of this chapter the director shall establish, within 15 days of the effective date of this act a statewide, uniform schedule for reimbursing physician services to Medi-Cal patients provided on or after July 1, 1976; except that, the director may establish physician reimbursement rates higher than the statewide rates for; (a) areas which the director determines to be medically underserved: and (b) other problems of equity in payment levels which adversely affect the accessibility of physician services to Medi-Cal recipients. Nothing in this section shall be construed to prevent the director from adopting physician reimbursement rates for primary care services and maternity care services which are relatively higher than the rates paid for other types of physician services.

14078. The director shall establish, at the time he or she establishes the statewide rate for physician services required by Section 14077, a level of reimbursement for physician services which represents at least an average increase over the statewide average amounts paid under the Medi-Cal program for the three-month period ending February 29, 1976, of 9.5 percent for all physician services except primary care services and maternity care services; of 20 percent for primary care services; and of 30 percent for maternity care services.

14079. The director annually shall review the reimbursement levels for physician and dental services under Medi-Cal, and shall revise periodically the rates of reimbursement to physicians and dentists to ensure the reasonable access of Medi-Cal beneficiaries to physician and dental services.

Such annual review, as it relates to rates for physician services, shall take into account at least the following factors:

1. Annual cost increases for physicians as reflected by the Consumer Price Index.

2. Physician reimbursement levels of medicare, Blue Shield, and other third-party payors.

3. Prevailing customary physician charges within the state and in various geographical areas.

4. Procedures reflected by the current Relative Value Studies (RVS).

5. Characteristics of the current population of Medi-Cal beneficiaries and the medical services needed.

Such review shall include a hearing by the Health Care Commission regarding the director's findings concerning the adequacy of rates for physicians and dentists and the commission's comments on such findings, if any. The director shall report the result of his or her annual review of reimbursement rates for physicians and dentists and the comments of the commission to the chairmen of the respective fiscal committees of each house of the Legislature and the Chairman of the Joint Legislative Budget Committee by January 1 of each year, commencing with January 1, 1979.

14080. The director shall report to the Legislature by January 1, 1978, on the effectiveness of the statewide uniform physician reimbursement method required by this act with respect to:

(a) The impact on physicians who are practicing in medically underserved areas and the need for additional rate increases in such areas;

(b) The need for additional differential rate increases to primary care physicians;

(c) Other problems of equity in payment levels which adversely affect the accessibility of physician services.

SEC. 2.5. Section 14079 is added to the Welfare and Institutions Code, to read:

14079. The director annually shall review the reimbursement levels for physician and dental services under Medi-Cal, and shall revise periodically the rates of reimbursement to physicians and dentists to ensure the reasonable access of Medi-Cal beneficiaries to physician and dental services.

Such annual review, as it relates to rates for physician services, shall take into account at least the following factors:

1. Annual cost increases for physicians as reflected by the Consumer Price Index.

2. Physician reimbursement levels of medicare, Blue Shield, and other third-party payors.

3. Prevailing customary physician charges within the state and in various geographical areas.

4. Procedures reflected by the current Relative Value Studies (RVS).

5. Characteristics of the current population of Medi-Cal beneficiaries and the medical services needed. The director shall report the result of his or her annual review of reimbursement rates for physicians and dentists to the chairmen of the respective fiscal committees of each house of the Legislature and the Chairman of the Joint Legislative Budget Committee by January 1 of each year,

commencing with January 1, 1979.

SEC. 3. Article 2.6 (commencing with Section 14090) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 2.6. Intermediate and Skilled Nursing Facilities Rates

14090. The Legislature hereby finds and declares that a high rate of turnover among direct patient care staff in intermediate and skilled nursing facilities diminishes the quality of care rendered to patients in such facilities. The Legislature further finds that the turnover among employees of such facilities is substantially attributable to the fact that the wages paid such employees are generally lower than the wages paid employees of other health care institutions in similar job classifications. It is the intent of the Legislature that Medi-Cal reimbursement rates for skilled nursing and intermediate care facilities, to the extent feasible, be set at levels sufficient to allow said employees to be paid at wages which are sufficient to reduce turnover among such employees, in order to improve the level and quality of patient care.

14091. Notwithstanding any other provision of law, the director shall establish and implement regulations on or before January 1, 1977 for a reimbursement rate for intermediate and skilled nursing facilities as defined in Section 1250 of the Health and Safety Code, which is sufficient to provide an average wage increase of ten cents ($0.10) per hour for all nonadministrative employees of such facilities. Such rate shall provide funding for the portion of additional costs necessary to implement the wage increase required by this section attributable to Medi-Cal patients. The portion of such additional costs shall be the same as the ratio of Medi-Cal patients to total patients in the facility.

The director shall determine the average hourly rate of pay in effect prior to the implementation of this act from a random sample of skilled facilities payrolls which will yield a 90% confidence factor. The basis of measurement of this wage increase will be a comparison of the average hourly rate of pay to employees or general classifications of employees of an individual facility compared to the average industry hourly rate of pay to employees or general classifications of employees as determined by the director.

Each skilled or intermediate care facility shall certify that their average rate of pay in their facility is equal to or in excess of the statewide average rate of pay as determined plus ten cents ($0.10) per hour provided by this act for wage increases.

The form of certification shall be determined by the director.

14092. The director shall inspect relevant payroll and personnel records of skilled nursing and intermediate care facilities which are reimbursed for Medi-Cal patients under the rate of reimbursement established pursuant to Section 14091 to insure that the wage increases provided for have been implemented. Any facility which

is reimbursed under the rate provided for in Section 14091 which the director finds has not made the wage increases provided for shall be liable to the state for the amount of funds reimbursed to such facility based upon the wage requirements provided for by this article. In addition, such facility shall be disqualified from participation in the program. Such disqualification shall not become effective until an opportunity for a hearing has been granted. Such facility shall also be subject to the provisions of Section 14107.

14093. The director shall report to the Legislature by February 1, 1978, on the implementation of this article. Such report shall specify the number of facilities inspected for compliance with the provisions of this article; the number of facilities disqualified from the program, if any; and recommendations by the director.

14094. This article shall have no force or effect after January 1, 1978, and as of such date is repealed.

SEC. 4. The director shall, to the fullest extent possible, utilize the latest Relative Value Studies published by the California Medical Association as the basis for defining the services for which physicians will be reimbursed under Medi-Cal. The department shall report to the Legislature as follows:

(a) By March 1, 1977, the feasibility for utilizing the 1974 Relative Value Studies published by the California Medical Association as the basis for defining services for which physicians are reimbursed under Medi-Cal;

(b) By January 1, 1977, a comprehensive study of the elements of overhead expense among emergency room physicians serving Medi-Cal patients, and the amount of overhead expense which should be reflected in the reimbursement rate for emergency room physicians under Medi-Cal.

SEC. 5. Notwithstanding any other provisions of this chapter, the director shall establish, within 15 days of the effective date of this act, a statewide, uniform schedule for reimbursing dental services to adult Medi-Cal patients provided on or after July 1, 1976. Such uniform, statewide schedule shall provide rates of reimbursement for dental services at a level equal to the statewide average paid amount for such services rendered to children under the Medi-Cal program during 1974.

This section shall have no force or effect after January 1, 1978.

SEC. 6. The sum of fifty-two million five hundred thousand dollars ($52,500,000) is appropriated from the General Fund for allocation by executive order of the State Department of Health and the Department of Rehabilitation to be expended for the purpose of providing the increased funding necessary to reimburse physicians and dentists for services according to the uniform payment system developed by the Director of Health.

SEC. 6.5. Section 2.5 of this act shall become operative only if Assembly Bill No. 3974 is enacted and in such event Section 14079 of the Welfare and Institutions Code added by Section 2 of this act shall not become operative.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to insure the continued availability of medical and dental services to Medi-Cal beneficiaries it is essential that this act take immediate effect.

CHAPTER 1208

An act to amend Sections 306, 306.5, 306.7, 307, 307.3, 308, 308.4, 308.5, and 308.6 of, and to add Sections 308.8 and 308.9 to, the Health and Safety Code, relating to child health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 306 of the Health and Safety Code, as added by Chapter 1069 of the Statutes of 1973, is amended to read:

306. The Legislature finds and declares that many physical and mental disabilities can be prevented, or their impact on an individual lessened, when they are identified and treated before they become chronic and irreversible damage occurs. The Legislature finds and declares that a community-based program of early identification and referral for treatment of potential handicapping conditions will be effective in reducing the incidence of such conditions and will benefit the health and welfare of the citizens of this state.

It is the intent of the Legislature in enacting this article to establish child health and disability prevention programs, which shall be financed and have standards established at the state level and which shall be operated at the local level, for the purpose of providing early and periodic assessments of the health status of children. It is further intended that child health and disability prevention programs shall make maximum use of existing health care resources and shall utilize, as the first source of screening, the child's usual source of health care so that health screening programs are fully integrated with existing health services, that health care professionals be appropriately represented and utilized in these programs, that outreach programs be developed to stimulate the use of preventive health services, and that services offered pursuant to this part be efficiently provided and be of the highest quality.

SEC. 1.5. Section 306.5 of the Health and Safety Code is amended to read:

306.5. A State Child Health Board is hereby established within

the department which shall consist of nine voting members.

The Governor shall appoint the following five members of the board: a county health officer selected from a list of three nominees submitted by the California Conference of Local Health Officers, one physician and surgeon, one person representative of a child advocate organization, and two parents of children eligible for services pursuant to this article, who are not health care providers. The Chairman of the Senate Rules Committee shall appoint two members of the board: a pediatrician and a parent of an eligible child who is not a health care provider. The Speaker of the Assembly shall appoint two members of the board: a pediatrician and a nurse whose speciality is child health. The Director of the State Department of Health and the Superintendent of Public Instruction, or their designees, shall serve as ex officio, nonvoting members of the board. Except for existing members of the board, all appointments shall be for three years.

The members of the board shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this article.

The board shall select its own chairman from among the nine appointed members by majority vote of the members and shall establish technical advisory committees as it deems necessary and desirable. Physician members of the board shall constitute a technical advisory committee for purposes of review of standards and regulations promulgated pursuant to subdivisions (a), (b), and (c). The board may utilize available department staff and staff of all other public and private agencies which have an interest in child health services.

The board shall meet on call of the board chairman, at least once annually, or as often as necessary to fulfill its duties. All meetings and records of the board shall be open to the public.

The board shall have the following powers, duties, and responsibilities:

(a) Review of standards for health screening, evaluation, and diagnostic procedures for community child health and disability prevention programs.

(b) Review of standards for directors of community child health and disability prevention programs.

(c) Review of standards for public and private health providers, facilities, and agencies which participate in community child health and disability prevention programs.

(d) Advising the director on the development of a five-year state plan for child health and disability prevention services.

(e) Periodic review of all child health and disability prevention services within California and conducting independent investigations and studies as necessary.

SEC. 2. Section 306.7 of the Health and Safety Code is amended to read:

306.7. The department shall administer this article and shall

adopt minimum standards for the approval of community child health and disability prevention programs and rules and regulations as necessary. Such standards shall allow necessary flexibility in the administration of county programs, taking into account the variability of county needs and resources. However, such standards, rules, and regulations may be adopted only with the advice and written recommendations of the board. Standards shall be adopted for:

(a) Education and experience requirements for directors of community child health and disability prevention programs.

(b) Health screening, evaluation, and diagnostic procedures for child health and disability prevention programs.

(c) Public and private facilities and providers which may participate in community child health and disability prevention programs.

The department shall adopt a five-year state plan for child health and disability prevention services by October 1, 1977. The plan shall include a method for allocating child health and disability prevention funds to counties. The plan shall be reviewed and revised as necessary to provide a basis for allocating state child health and disability prevention program funds throughout the state.

SEC. 2.5. Section 307 of the Health and Safety Code is amended to read:

307. The governing body of each county or counties shall establish a community child health and disability prevention program for the purpose of providing early and periodic assessments of the health status of children in the county or counties by July 1, 1974. However, this shall be the responsibility of the department for all counties which contract with the state for health services. Contract counties, at the option of the board of supervisors, may provide services pursuant to this article in the same manner as other county programs, provided such option is exercised prior to the beginning of each fiscal year. Each such plan shall include, but is not limited to, the following requirements:

(a) Outreach and educational services.

(b) Agreements with public and private facilities and practitioners to carry out the programs.

(c) Health screening and evaluation services.

(d) Referral for diagnosis or treatment when needed and methods for assuring referral is carried out.

(e) Recordkeeping and program evaluations.

The health screening and evaluation part of each community child health and disability prevention program plan shall include, but is not limited to, the following for each child:

(a) A health and development history.

(b) An assessment of physical growth.

(c) An examination for obvious physical defects.

(d) Ear, nose, mouth, and throat inspection, including inspection of teeth and gums.

(e) Screening tests for vision, hearing, anemia, tuberculosis, diabetes, and urinary tract conditions.

(f) An assessment of nutritional status.

(g) An assessment of immunization status.

(h) Where appropriate, testing for sickle cell trait, lead poisoning, and other tests which may be necessary to the identification of children with potential disabilities requiring diagnosis and possibly treatment.

Standards for procedures to carry out health screening and evaluation services and to establish the age at which particular tests should be carried out shall be established by the director, with review and recommendation by the board. However, a governing body may include additional health screening and evaluation procedures in its program if approved by the director and the board.

Each community child health and disability prevention program shall, pursuant to standards set by the director, establish a record system which contains a health case history for each child so that costly and unnecessary repetition of screening, immunization and referral will not occur and appropriate health treatment will be facilitated as specified in Section 308.5.

SEC. 2.5. Section 307.3 of the Health and Safety Code is amended to read:

307.3. Each county shall appoint a local advisory board to assist in the administration of this article. The local advisory board shall include representatives from health professions concerned with child health, school health personnel, and parents of eligible children and shall, to the extent feasible, not be created separately from other health advisory bodies in the county.

The local advisory board shall:

(a) Review the community's child health needs and the adequacy of health care providers and facilities to meet those needs.

(b) Review the community child health and disability prevention plan.

(c) Advise and report directly to the governing body as to the program for child health and disability prevention.

The local advisory board shall also perform such other duties relating to child health which may be delegated to it by the board of supervisors.

SEC. 3. Section 308 of the Health and Safety Code is amended to read:

308. (a) On or before October 1 of each year, each county program director shall submit a preliminary budget for the subsequent fiscal year which provides the following information:

(1) A summary of the previous year's activity, including the number of children screened, the number of children referred for diagnosis and treatment, by condition, and the cost of screening services.

(2) A summary description of the results of cases in which a treatable disability was identified and referral made.

(3) A projection and cost estimates of the number of children to be screened for the fiscal year for which the budget is being submitted.

(b) On or before March 15 of each year, each governing body shall submit a revised estimate relative to paragraphs (1), (2), and (3) of subdivision (a), at which time the community child health and disability prevention plan shall include the following:

(1) An assessment of the adequacy and availability of the facilities and providers to provide health screening diagnostic and treatment services.

(2) A description of the child health and disability prevention program to be offered, including expected participating providers and outreach mechanisms to be utilized.

(3) A summary description of the current year's activity, including the number of children screened, the number of children referred for diagnosis and treatment, by condition, and the cost of screening services.

(4) A description of how existing school health resources, including school health personnel, are to be utilized for outreach and other services.

(5) A revision of budget estimates, including all sources of revenue, for the proposed budget year if such revisions are necessary to make the estimates compatible with the budget submitted by the Governor to the Legislature.

If previous county plans approved by the department contain acceptable data with respect to the requirements of this subdivision, the county plan for the budget year need contain only revisions to the approved program.

The director shall determine the amount of state funds available for each county for specified services under an approved community child health and disability prevention plan from state funds appropriated for child health and disability prevention services.

If the amount appropriated in the Budget Act for such fiscal year as enacted into law differs from the amount in the budget submitted by the Governor for such fiscal year, each governing board shall submit an additional revised plan in the form and at the time specified by the department.

SEC. 4. Section 308.4 of the Health and Safety Code is amended to read:

308.4. (a) In order to ensure the maximum utilization of the California Medical Assistance Program and other potential reimbursement sources, the state department shall develop a schedule and method of reimbursement at reasonable rates for services rendered pursuant to this article. Such reimbursement schedule shall include provision for well child examinations as well as for administrative expenses incurred by providers pursuant to meeting the provisions of 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. Notwithstanding the provisions of subdivision (c) of Section 14000 of the Welfare and Institutions Code and Section 14005 of such code, the California Medical Assistance Program shall be billed for services rendered pursuant to this article for every Medi-Cal eligible beneficiary.

(b) The state department and counties shall maximize the use of federal funds for carrying the provisions of this chapter, including using state or county funds to match funds claimable under Title 19 of the Social Security Act. Services and administrative support costs claimable under federal law shall include, but not be limited to, outreach, health education, case management, resource development, and training at state and local levels. Any federal funds received shall augment and not replace funds appropriated from the General Fund for carrying out the purposes of this chapter.

SEC. 5. Section 308.5 of the Health and Safety Code is amended to read:

308.5. On and after July 1, 1976, each child eligible for services under this article shall, within 90 days after entrance into the first grade, provide a certificate approved by the State Department of Health to the school in which the child is to enroll documenting that within the prior 18 months the child has received the appropriate health screening and evaluation services specified in Section 307. A waiver signed by the child's parents or guardian indicating that they do not want or are unable to obtain such health screening and evaluation services for their children shall be accepted by the school in lieu of the certificate. If the waiver indicates that the parent or guardian was unable to obtain such services for the child, then the reasons why should be included in the waiver.

SEC. 6. Section 308.6 of the Health and Safety Code is amended to read:

308.6. Any child between birth and 90 days after entrance into the first grade and all persons under 21 years of age who are eligible for the California Medical Assistance Program shall be eligible for services from the child health and disabilities prevention program in the county of which they are a resident. The department, with review and recommendation by the board, shall adopt rules and regulations specifying which age groups shall be given certain types of screening tests and recommendations for referral.

The first source of referral shall be the child's usual source of health care. If referral is required and no regular source of health care can be identified, the facility or provider providing health screening and evaluation services shall provide a list of three qualified sources of care, without prejudice for or against any specific source.

SEC. 7. Section 308.8 is added to the Health and Safety Code, to read:

308.8. In cooperation with the county child health and disability prevention program, the governing body of every school district or private school which has children enrolled in kindergarten shall provide information to the parents or guardians of all children

enrolled in kindergarten of the provisions of this article. Every school district or private school which has children enrolled in the first grade shall report by January 15 of each year to the county child health and disability prevention program, the State Department of Health and the Department of Education the following information:

(a) The total number of children enrolled in first grade.

(b) The number of children who have had a health screening examination, as evidenced by the certificate required by Section 308.5.

(c) The number of children whose parents or guardian have given written notice pursuant to Section 308.5 that they do not want their child to receive a health screening examination.

Each county child health and disability prevention program shall reimburse school districts for information provided pursuant to this section. The Superintendent of Public Instruction may withhold state average-daily-attendance funds to any school district for any child for whom a certification or parental waiver is not obtained.

SEC. 8. Section 308.9 is added to the Health and Safety Code, to read:

308.9. All information and results of the health screening and evaluation of each child shall be confidential and shall not be released without the informed consent of a parent or guardian of the child.

The results of the health screening and evaluation shall not be released to any public or private agency, even with the consent of a parent or guardian, unless accompanied by a professional interpretation of what the results mean.

SEC. 9. The sum of seven hundred ninety-six thousand dollars ($796,000) is hereby appropriated from the General Fund to the State Department of Health, in augmentation of subitem (j) of Item 293 of the Budget Act of 1976 (Ch. 320, Stats. 1976), to be expended for the purposes specified in this act and to provide additional resources for the Child Health Disability Prevention Program (Art. 3.1 (commencing with Sec. 306) Ch. 2, Pt. 1, Div. 1, H. & S.C.).

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to prevent children from being denied entrance into elementary schools because of their failure to meet health screening deadlines under current law, it is necessary that this act take effect immediately.

CHAPTER 1209

An act to add Section 31725.8 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 31725.8 is added to the Government Code, to read:

31725.8. If any applicant for service-connected disability retirement is found by the board to be permanently physically or mentally incapacitated for the performance of his duties but not because of injury or disease arising out of and in the course of his employment, he may apply for, and the board in its discretion may grant, a non-service-connected disability retirement allowance while he is pursuing any rehearing before the board or judicial review concerning his right to service-connected disability retirement. If his disability is finally determined to have been service-connected, appropriate adjustments shall be made in his retirement allowance retroactive to the effective date of his disability retirement.

If any member dies after electing to receive non-service-connected disability retirement and before the question of his entitlement to service-connected disability retirement is finally resolved, the rights of his beneficiary shall be those selected by the member at the time he elected to receive non-service-connected disability retirement.

CHAPTER 1210

An act to repeal Section 690.2 of, and to add Section 690.2 to, the Code of Civil Procedure, relating to attachment and execution.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 690.2 of the Code of Civil Procedure is repealed.

SEC. 2. Section 690.2 is added to the Code of Civil Procedure, to read:

690.2. (a) One motor vehicle with a value not exceeding five hundred dollars ($500), over and above all liens and encumbrances on such motor vehicle. The value of such motor vehicle shall be established by reference to used car price guides customarily used by California automobile dealers, or, if not listed in such guides, fair

market value, for a motor vehicle of that year and model.

(b) The levying officer shall consult the Department of Motor Vehicles and, if the department's records show that another vehicle is registered in the name of the debtor, the levying officer shall distribute the proceeds of the sale in the following order of priority:

(1) First, the seller, lienholder or encumbrancer shall recover pursuant to paragraph (1) of Section 689c;

(2) Second, to the satisfaction of the judgment; and

(3) Third, the balance, if any, to the debtor.

The levying officer shall notify the debtor if he intends to distribute under this subdivision and shall notify the debtor that the debtor may file a claim of exemption pursuant to Section 690.50 at any time prior to distribution of the proceeds of the sale. If he does not own another safe and functional motor vehicle which can legally be operated on the public roadway or a motor vehicle which can be made safe, functional, and legally operable on the public roadway, with an expenditure which is reasonable in relation to its fair market value, the claim of exemption shall be sustained.

Any motor vehicle registered to the spouse of the debtor and which is community property shall be deemed to be owned by the debtor when the debtor and the debtors spouse reside together.

If the claim of exemption is sustained the proceeds shall be distributed as provided in subdivision (c).

(c) When the debtor has only one vehicle, the levying officer shall distribute the proceeds of any execution sale or from the undertaking, if necessary, without further order of the court, in the following order of priority:

(1) First, the seller, lienholder or encumbrancer shall recover pursuant to paragraph (1) of Section 689c;

(2) Second, the debtor shall recover five hundred dollars ($500), the amount of the motor vehicle exemption;

(3) Third, to the satisfaction of the judgment; and

(4) Fourth, the balance, if any, to the debtor.

This distribution shall be made, whether or not the debtor has filed a claim of exemption and regardless of who purchases the motor vehicle.

(d) The levying officer shall not receive any bid at an execution sale under subdivision (c) unless it exceeds the total of:

(1) The motor vehicle exemption;

(2) The aggregate amount of all liens and encumbrances on the motor vehicle; and

(3) The amount necessary to repay the judgment creditor for the fees and costs advanced to the levying officer.

In the event no bid is accepted the levying officer shall release the motor vehicle to the debtor within five days.

(e) Any amount representing the motor vehicle exemption paid to the debtor shall be entitled, for a period of 90 days thereafter, to the same protection against legal process which the law gives to the motor vehicle exemption.

CHAPTER 1211

An act to add Section 29138 to the Elections Code, relating to elections.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 29138 is added to the Elections Code, to read:

29138. No agency or department of the state may use its publications to advise state employees of any constitutional officer's choice of candidates for public office or for recommending positions on specific ballot propositions not related to the functions of that agency or department.

For purposes of this section "publications" mean any written or printed matter including, but not limited to, agency or department memorandums or directives, but shall not include legislative newsletters or state ballot pamphlets.

Any state officer who violates this section is guilty of a misdemeanor.

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 1212

An act to amend the heading of Article 3.6 (commencing with Section 340) of Chapter 2 of Division 1 of, and to amend Sections 340, 341, 342, 343, 345, 346, 347, and 348 of, and to add Sections 341.5, and 347.5 to, the Health and Safety Code, and to amend Section 1 of Chapter 1507 of the Statutes of 1974, relating to health services, and making an appropriation therefor.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. The heading of Article 3.6 (commencing with Section 340) of Chapter 2 of Division 1 of the Health and Safety Code is amended to read:

Article 3.6. Genetically Handicapped Person's Program

SEC. 2. Section 340 of the Health and Safety Code is amended to read:

340. This article shall be known and may be cited as the Holden-Moscone-Garamendi Genetically Handicapped Person's Program.

SEC. 3. Section 341 of the Health and Safety Code is amended to read:

341. The Director of Health shall establish and administer a program for the medical care of persons with genetically handicapping conditions, including cystic fibrosis, hemophilia, and sickle cell disease, through physicians and centers that are qualified pursuant to the regulations of the department to provide such medical services. The director, with the guidance of the Advisory Committee on Genetically Handicapped Person's Program may, by regulation, expand the list of genetically handicapping conditions covered under this article. The director shall adopt such rules and regulations as are necessary for the implementation of the provisions of this article. The director, with the approval of the advisory committee, shall establish priorities for the use of funds and provision of services under this article.

SEC. 3.5. Section 341.5 is added to the Health and Safety Code, to read:

341.5. As used in this article, "genetically handicapping condition" shall mean a disease which is accepted as being genetic in origin by the American Society of Human Genetics.

SEC. 4. Section 342 of the Health and Safety Code is amended to read:

342. The program established under this article shall include any or all of the following:

(a) Initial intake and diagnostic evaluation;

(b) The cost of blood transfusion and use of blood derivatives, or both;

(c) Rehabilitation services, including reconstructive surgery;

(d) Expert diagnosis;

(e) Medical treatment;

(f) Surgical treatment;

(g) Hospital care;

(h) Physical therapy;

(i) Occupational therapy;

(j) Special treatment;

(k) Materials;

(*l*) Appliances and their upkeep, maintenance, and care;

(m) Maintenance, transportation, or care incidental to any other form of services; and

4 1483 28 11 290 963

(n) Appropriate staff to carry out the provisions of this article.

SEC. 5. Section 343 of the Health and Safety Code is amended to read:

343. The Director of Health shall appoint a nine-member Advisory Committee on Genetically Handicapped Person's Program composed of professional and consumer representatives who shall serve without compensation and at the discretion of the director. The director shall seek the advice of the advisory committee with respect to rules and regulations to be adopted pursuant to this article.

SEC. 6. Section 345 of the Health and Safety Code is amended to read:

345. Reimbursement under this article shall not be made for any services which are available to the recipient under any other private, state, or federal programs or under other contractual or legal entitlements. However, no provision in this article shall be construed as limiting in any way state participation in any federal governmental program for medical care of persons with genetically handicapping conditions.

SEC. 7. Section 346 of the Health and Safety Code is amended to read:

346. The State Department of Health shall receive and expend all funds made available to it by the federal government, the state, its political subdivisions or from other sources for the purposes of this article. Payment for genetically handicapped person's program shall be made by the State Department of Health.

SEC. 7.5. Section 347 of the Health and Safety Code is amended to read:

347. The state department shall establish, with the guidance of the advisory committee, uniform standards of financial eligibility for the treatment services under the program established under this article, including a uniform formula for the repayment services rendered by the program established under this article. All counties shall use the uniform standards for financial eligibility and uniform formula for repayment established by the state department. All repayments shall be used in support of the program for services established under this article.

The state department shall establish repayment schedules for services not later than January 30, 1977, upon the approval of such schedules by the Department of Finance.

SEC. 8. Section 347.5 is added to the Health and Safety Code, to read:

347.5. The state department shall maintain sufficient, appropriate staff to carry out the provisions of this article.

SEC. 9. Section 348 of the Health and Safety Code is amended to read:

348. The health care benefits and services specified in this article, to the extent that such benefits and services are neither provided under any other federal or state law nor provided nor available under other contractual or legal entitlements of the person, shall be

provided to any patient who is a resident of this state and is made eligible by the provisions of this article. After such patient has utilized such contractual or legal entitlements, the payment liability under Section 347 shall then be applied to the remaining cost of genetically handicapped person's services.

SEC. 10. Section 1 of Chapter 1507 of the Statutes of 1974 is amended to read:

Section 1. The Legislature finds that there are at least 2,200 identified victims of the diseases of cystic fibrosis (100), hemophilia (1,600), and sickle cell disease (500) in this state, and that cystic fibrosis, hemophilia, and sickle cell disease are generally excluded from any private medical insurance coverage except in an employment situation under group coverage which is usually ended upon termination of employment, and that there is a need for a statewide program for the medical care of persons with cystic fibrosis, hemophilia, sickle cell disease, and other genetically handicapping conditions who are unable to pay for their necessary medical services, wholly or in part.

SEC. 11. The sum of two hundred twenty-eight thousand four hundred dollars ($228,400) is hereby appropriated from the General Fund to the State Department of Health for expenditure for the purpose of carrying out the Holden-Moscone-Garamendi Genetically Handicapped Person's Program (Article 3.6 (commencing with Section 340) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code) in accordance with the following schedule:

Schedule	
For diagnosis and treatment	$180,390
For administrative costs	34,260
For financial eligibility	13,750

CHAPTER 1213

An act to add Article 3 (commencing with Section 24320) to Chapter 9 of Division 18 of the Education Code, relating to the California State University and Colleges.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Article 3 (commencing with Section 24320) is added to Chapter 9 of Division 18 of the Education Code, to read:

Article 3. Separation of Employees From Service for Lack of Funds or Lack of Work

24320. (a) It shall be the policy of the California State University and Colleges to provide stability of employment by foreseeing and avoiding unnecessary reductions in staff. However, when this is not possible due to lack of funds or lack of work, the staff shall be reduced in accordance with this article. The classes or teaching service areas to be reduced and the employees therein to be laid off shall be determined, in accordance with the provisions of this article, by the president of the campus after consultation with such employees and others in the same classes, specializations within classes, or teaching service areas and other persons as appropriate, including faculty and administrators. The chancellor shall make all determinations for the office of the chancellor.

(b) The office of Chancellor of the California State University and Colleges shall make a survey of all campuses in order to ascertain the availability of suitable positions where staff to be laid off may seek relocation. To the extent staff resources permit, similar efforts shall be made with respect to colleges and universities outside the California State University and Colleges.

24321. (a) Layoff of administrative and nonacademic employees shall be by class within a particular campus, or within the office of the chancellor.

(b) Layoff of academic employees shall be by teaching service area within a campus.

24322. (a) Whenever a determination has been made that there is a lack of funds or lack of work, employees in a class or teaching service area to be reduced shall be laid off in the following order:

(1) The Chancellor of the California State University and Colleges or a president of a state university or college may, at his discretion, without regard to the class or teaching service area to be reduced, separate from service any student assistant, instructor for extension service, person employed on a temporary basis, or, with respect to employment in a summer session, any member of the faculty of a campus summer session. Persons described in this paragraph, if performing the same or comparable work as that performed by a probationary or permanent employee, shall be separated before any probationary or permanent employee desiring to continue in employment is laid off pursuant to the provisions of this article.

(2) Probationary employees not employed on a temporary basis, without regard to length of service.

(3) Permanent employees:

(A) If the area of layoff is in administrative or nonacademic classes, permanent administrative and nonacademic employees in the inverse order of their length of employment both in the class and in class of equal or higher rank.

(B) If the area of layoff is in class or rank positions, permanent academic employees in the inverse order of their length of

employment at the campuses.

(C) If the area of layoff is in the closely related academic area, permanent employees in the inverse order of their length of employment in the class or in classes of equal or higher level at the campuses.

(b) If the layoff is in a class, part-time employees shall be credited with the service at the campus in the proportion that the actual time employed bears to full-time employment. If the layoff is in a teaching service area, part-time permanent employees shall be credited with service as permanent employees of the campus in the proportion that the actual time served as permanent employees bears to full-time employment.

(c) In case two or more employees in the class or teaching service area are tied for a place in the order of layoff, the president or the chancellor, as appropriate to the place of employment, shall determine which of such employees shall be laid off.

24323. After a determination has been made of the class or teaching service area to be reduced and the number of employees in such class or area to be laid off, the president or chancellor shall notify each employee to be laid off, that the employee is being laid off for lack of funds or lack of work. Such notice shall be in writing and mailed by certified mail, return receipt requested, to the employee's last known address, or the notice may be delivered to the employee in person who shall acknowledge receipt of the notice in writing. The notice shall specify the effective date of layoff and shall be delivered to the employee or mailed to the employee's last known resident address at least 30 days, whenever possible, prior to the effective date of the layoff. When curricular shifts or other program changes, which can be anticipated, are to be made those who will be laid off will normally be notified at least one year in advance.

24324. An employee to be laid off may elect to accept such layoff prior to the date named in the notice of layoff. If an employee elects to accept early layoff, he should give as much notice as possible.

24325. (a) In lieu of being laid off, an administrative or nonacademic employee may elect demotion or transfer to any class in which he has served as a permanent employee or to any vacancy for which he is qualified.

(b) In lieu of being laid off, an academic teaching employee actively employed at a campus during the academic year 1975–76 or prior thereto at such campus may elect transfer to that other teaching service area in which he or she has served longest during the preceding four years at the particular campus if both of the following conditions exist:

(1) If the employee, during the four-year period immediately preceding the date of the mailing of the layoff notice, taught at least 24 semester units or 36 quarter units in any one teaching service area other than the teaching service area in which he or she is teaching on the date of the mailing of the layoff notice provided that only such units as have accrued during the academic year 1975–76 and prior

thereto may be utilized for purposes of transfer under this section.

(2) If the employee has not previously during that year elected transfer in lieu of layoff.

(c) In the event an employee elects demotion or transfer, his place for layoff purposes in the class or teaching service area to which he elects demotion or transfer shall be determined in accordance with this article.

(d) An employee electing demotion or transfer shall notify the president or chancellor in writing of his election within five calendar days after receipt of the notice of layoff.

24326. (a) The president at each campus, and the chancellor at the office of the chancellor, shall establish and maintain reemployment lists of all permanent employees laid off for lack of funds or lack of work during the preceding five-year period. Laid-off permanent employees shall be listed by class or teaching service area corresponding to the class or teaching service area from which they were laid off.

(b) In the event there is a vacancy at a campus or at the office of the chancellor, for which there exists no reemployment list, the position may be offered to the persons in the appropriate class or teaching service area who are on mandatory reemployment lists at another campus or the office of the chancellor.

(c) A person shall deliver or cause to be delivered his acceptance of an offer with the following times:

(1) When the person resides in the city from which the offer is mailed, five days after the date the offer is received.

(2) When the person resides outside such city, seven days after the offer is received.

(3) When the offer is made by telephone or telegram, 48 hours after the offer is received.

While a prudent effort shall be made to contact the person eligible for reemployment, it is his responsibility to keep the office maintaining the reemployment list informed of where he may be reached readily.

(d) Any person on a reemployment list who cannot be reached within five days, or who fails to reply to an offer of reemployment as required by this section, shall be deemed to have declined the offer. Such failure by any person may be excused by the president or chancellor at his discretion. If the failure is excused, the person may be reemployed or his name may be continued on the reemployment list if the vacancy has already been filled.

(e) Any persons on a reemployment list may request inactive status for a prescribed period of not to exceed one year.

(f) Any person on the reemployment list who declines two offers of reemployment shall be removed from the list. Any person removed from a reemployment list may be restored to his relative position on the list at the discretion of the president or chancellor upon a showing of good cause.

(g) Any employee reemployed pursuant to this article shall be

41615 28 11 385 982

reemployed in a class at a level at least equal to that from which he was laid off.

CHAPTER 1214

An act to amend Section 1513 of, and to add Section 1513.5 to, the Code of Civil Procedure, relating to unclaimed property.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 1513 of the Code of Civil Procedure is amended to read:

1513. Subject to Sections 1510 and 1511, the following property held or owing by a business association escheats to this state:

(a) Any demand, savings, or matured time deposit made with a banking organization, together with any interest or dividends thereon, excluding, from demand deposits only, any reasonable service charges which may lawfully be withheld and which do not (where made in this state) exceed those set forth in schedules filed by the banking organization from time to time with the State Controller, when the owner, for more than seven years, has not:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization.

No banking organization may discontinue any interest or dividends on any savings deposit because of the inactivity contemplated by this section.

(b) Any funds paid toward the purchase of shares or other interest in a financial organization or any deposit made therewith, and any interest or dividends thereon, excluding any service charges the amount of which is specifically provided by federal statute or regulation of a federal agency and which do not (where paid or made in this state) exceed those set forth in schedules filed by the financial organization from time to time with the State Controller, when the owner, for more than seven years, has not:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum or other record on file with the financial organization.

No financial organization may discontinue any interest or dividends on any funds paid toward purchase of shares or other interest, or on any deposit, because of the inactivity contemplated by this section.

(c) Any sum payable on a travelers check issued by a business association that has been outstanding for more than 15 years from the date of its issuance, when the owner, for more than 15 years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with such association.

(d) Any sum payable on any other written instrument on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, any draft, certified check, or money order, that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, when the owner, for more than seven years, has not corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization.

(e) Any sum payable on a money order issued by a business association (other than a banking or financial organization) that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, when the owner, for more than seven years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the business association.

SEC. 2. Section 1513.5 is added to the Code of Civil Procedure, to read:

1513.5. (a) Every banking or financial organization shall make reasonable efforts to notify any customer that the customer's deposit, shares, or other interest in the banking or financial organization will escheat to the state pursuant to subdivision (a) or (b) of Section 1513 not less than six nor more than 12 months before the time such deposit, shares, or other interest will escheat.

(b) The notice required by this section shall specify the time that the deposit, shares, or other interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, shares, or other interest. It shall also include a form, as prescribed by the State Controller, by which the customer may declare an intention to maintain the deposit, shares, or other interest. If that form is filled out, signed by the customer, and returned to the banking or financial organization, it shall satisfy the requirement of paragraph (3) of subdivision (a) or paragraph (3) of subdivision (b) of Section 1513. The banking or financial organization may impose a

service charge on such deposit, shares, or other interest for such notice in an amount not to exceed the administrative cost of mailing the notice and form and in no case to exceed one dollar ($1).

CHAPTER 1215

An act making an appropriation to the Department of Food and Agriculture.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. (a) The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the Department of Food and Agriculture as a loan for the purpose of investigating the current disease or diseases attacking cherry trees in San Joaquin County, provided that no expenditure shall be made until the Director of Food and Agriculture has approved a marketing order or agreement providing for reimbursement to the state of the entire appropriation.

(b) On or before July 1, 1977, the Department of Food and Agriculture shall report to the Legislature on any research or progress made in connection with the investigation specified in subdivision (a).

CHAPTER 1216

An act to amend, add, and repeal Section 39011 of, and to add Sections 39706 and 41853.5 to, the Health and Safety Code, relating to air pollution, and making an appropriation therefor.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 39011 of the Health and Safety Code is amended to read:

39011. "Agricultural burning" means open outdoor fires used in agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or disease or pest prevention.

In addition, "agricultural burning" includes open outdoor fires used in burning solid waste which is produced from the ginning of cotton.

This section shall remain in effect only until January 1, 1979, and as of that date is repealed.

SEC. 2. Section 39011 is added to the Health and Safety Code, to read:

39011. "Agricultural burning" means open outdoor fires used in agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or disease or pest prevention.

This section shall become operative on January 1, 1979.

SEC. 3. Section 39706 is added to the Health and Safety Code, to read:

39706. The fees deposited in the Air Pollution Control Fund pursuant to Section 41853.5 are hereby continuously appropriated to the state board for research and development of a cotton gin trash incinerator heat exchanger or other device for the disposal of solid waste which is produced from the ginning of cotton, consistent with emission standards set by a district board or the state board. The state board shall consult with the Solid Waste Management Board prior to awarding a contract for, or conducting, such research and development. If the state board determines that such a device is available or that further expenditures for such purposes would not contribute meaningfully to their development, the fees shall be utilized in accordance with the provisions of Section 43014.

SEC. 4. Section 41853.5 is added to the Health and Safety Code, to read:

41853.5. (a) No permit shall be issued pursuant to Section 41853 to a person for the burning of solid waste which is produced from the ginning of cotton, unless the person pays to the issuing agency a fee of fifteen cents ($0.15) for each bale of cotton ginned that will produce the solid waste that is to be burned.

(b) Except as provided in subdivision (c), the issuing agency shall deposit monthly the collected fees in the Air Pollution Control Fund.

(c) To pay for administrative costs of issuing the permits, the issuing agency may retain from the fees collected pursuant to this section an amount equal to either the estimated cost of issuing the permits, or 4 percent of the total fees collected, whichever is less. The state board may make an annual audit of the issuing agency to determine the amount of fees retained by an issuing agency.

SEC. 5. It is the intent of the Legislature that the amendments to Section 39011 of the Health and Safety Code which are made by Section 1 of this act shall remain in effect only until January 1, 1979, and on that date Section 2 of this act shall become operative to restore Section 39011 to the form in which it read immediately prior to the effective date of this act.

SEC. 6. 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 authorizes a revenue source, or makes local governments eligible for a revenue source, that may be utilized by local governments to cover the cost of the mandate.

CHAPTER 1217

An act to amend Sections 3324 and 4461 of, and to repeal Sections 4402, 4403, 4404, 4405, 4406, 4407, 4408, 4409, and 4410 of, the Food and Agricultural Code, and to amend Section 14256 of the Government Code, relating to fairs, and making an appropriation therefor.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 3324 of the Food and Agricultural Code is amended to read:

3324. The Director of Parks and Recreation may appoint all necessary marshals and police to keep order and preserve peace at the California Exposition and State Fair. The officers who are so appointed shall be vested with the same authority as peace officers for the preservation of order and peace at the California Exposition and State Fair. The primary duty of any such peace officer shall be the enforcement of the rules and regulations of the department for the California Exposition and State Fair and to arrest persons for the commission of any public offense within the California Exposition and State Fairgrounds. The authority and powers of any such peace officer shall be limited to those conferred by law on peace officers as specified in Section 830.31 of the Penal Code.

The department may establish rules and regulations not inconsistent with law for the government and administration of the California Exposition and State Fair.

There is created, within the Division of Exposition and State Fair, a deputy or employee who shall be appointed by the Governor, upon recommendation of the Director of Parks and Recreation. The compensation of such deputy or employee shall be fixed by the director pursuant to law. Such deputy or employee shall be exempt from civil service and shall be in addition to any existing exempt entitlements created by the Constitution or by statute.

SEC. 1.5. Section 4402 of the Food and Agricultural Code is repealed.

SEC. 2. Section 4403 of the Food and Agricultural Code is repealed.

SEC. 3. Section 4404 of the Food and Agricultural Code is repealed.

SEC. 4. Section 4405 of the Food and Agricultural Code is repealed.

SEC. 5. Section 4406 of the Food and Agricultural Code is repealed.

SEC. 6. Section 4407 of the Food and Agricultural Code is repealed.

SEC. 7. Section 4408 of the Food and Agricultural Code is repealed.

SEC. 8. Section 4409 of the Food and Agricultural Code is repealed.

SEC. 9. Section 4410 of the Food and Agricultural Code is repealed.

SEC. 10. Section 4461 of the Food and Agricultural Code is amended to read:

4461. Any funds that are appropriated for the encouragement of county, district agricultural association, or combined county and district agricultural association fairs which, pursuant to law, are apportioned by the department shall be paid monthly to the several eligible counties and district agricultural associations in such amounts as the department determines during the fiscal year in which the apportionment is made. The department shall make its determination of monthly amounts based on the relative need of the county or district agricultural association for the funds during the particular month. The monthly apportionment of funds on a need basis shall not result in an annual apportionment to a particular county or district agricultural association in excess of the amount otherwise payable. The aggregate of the monthly apportionments to each of the several counties and district agricultural associations shall not exceed the maximum apportionment for the year.

"Need", as used in this section, means the combination of the current cash position of the fair and the time of year at which the annual fair is held.

SEC. 11. Section 14256 of the Government Code is amended to read:

14256. Where the nature of the work in the opinion of the department is such that its services in connection therewith are not required, it may authorize the carrying out of the project directly by the state agency concerned therewith if the estimated cost does not exceed one hundred thousand dollars ($100,000), except that the one hundred thousand dollars ($100,000) limitation shall not apply to a project of a district agricultural association.

If the estimated total cost of any construction project or work carried out under this section exceeds fifteen thousand dollars ($15,000), the district or agency shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids; provided, however, that the director may authorize the district or agency to carry out work in excess of fifteen thousand dollars ($15,000) under the provisions of this section by day labor if he deems that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state; however, in no event shall the amount of work performed by day

labor under this section exceed the sum of thirty-five thousand dollars ($35,000) in the case of agricultural district fair projects, or twenty thousand dollars ($20,000) in other cases.

SEC. 12. There is hereby appropriated from the General Fund to the Department of Parks and Recreation, Division of Exposition and State Fair, the sum of thirty-four thousand dollars ($34,000) in augmentation of Item 273(a) of Chapter 320 of the Statutes of 1976 for the purpose of funding contract administration and planning and development functions within the division.

CHAPTER 1218

An act to amend Section 58892 of the Food and Agricultural Code, relating to marketing orders.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 58892 of the Food and Agricultural Code is amended to read:

58892. A marketing order may contain provisions for carrying on research studies in the production, processing, or distribution of any commodity and for the expenditure of moneys for such purposes. Production research for the purpose of determining the production, processing, and distribution qualities of perennial agricultural commodities may be established for the period of time necessary, not to exceed 10 years, to make such determination even though the period of time necessary may extend beyond the term of the marketing order or agreement involved, provided the director finds there is no satisfactory alternative method to accomplish the desired research, and provided further, that the director has determined, after conducting a public hearing as provided for in Article 6 (commencing with Section 58771), and making the necessary findings as required by Section 58813, that such proposed research project shall be submitted for a vote of those persons being regulated, and, provided further, that valid votes have been cast in any such vote that represent not less than 40 percent of the total number of producers of the commodity of record with the department, or not less than 40 percent of the total number of handlers of the commodity of record with the department, or not less than 40 percent of each of such producers and handlers of such commodity when both are affected; and provided still further that, in any such voting, a favorable vote was cast by not less than 65 percent of the total number of such producers, or such handlers, or both, respectively, and that such producers, handlers, or both, respectively, marketed not less than 51 percent of the total quantity

of such commodity that was marketed in the next preceding marketing season by all of the producers, or handlers, or both, respectively, that cast ballots in the vote for the proposed research study. An advisory board may recommend and the director may approve that the funds necessary for such research be expended by an advisory board annually or allocated in a lump sum and placed in a trust account established by the director for the purpose of ensuring the completion of such project. In the event a trust fund is established, the director may also appoint a board of trustees to assist the director in the administration of such research project. In any research in production or processing which is carried on pursuant to this section, the Vice President for Agricultural Sciences of the University of California and the advisory board which is provided for in Article 8 (commencing with Section 58841) of this chapter shall cooperate in selecting the research project which is to be carried on from time to time. Insofar as practicable, the projects shall be carried out by the University of California, but if the vice president and the advisory board determine that the university has no facilities for a particular project, or that some other research agency has better facilities for it, the project may be carried out by any other research agency which is selected by the vice president and the advisory board.

CHAPTER 1219

An act to amend Section 56302 of, and to add Sections 56303 to, the Food and Agricultural Code, relating to sale of livestock.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 56302 of the Food and Agricultural Code is amended to read:

56302. Every dealer shall pay for any farm product which is delivered to him at the time and in the manner which is specified in the contract with the producer. If no time is set by such contract, or at the time of the delivery, he shall pay for the farm product within 30 days from the delivery or taking possession of such farm product.

The provision of this section shall not apply to the sale of livestock provided for by Section 56303.

SEC. 2. Section 56303 is added to the Food and Agricultural Code, to read:

56303. Notwithstanding the provisions of Section 56302, every dealer who purchases livestock for slaughter shall make full payment for such livestock, by the transfer of collected funds to the seller's account, within two business days from the delivery of such livestock

to the dealer.

For purposes of this section, "business day" means any day which is a business day under the provisions of Section 9 of the Civil Code.

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 1220

An act to amend Section 9700 of the Vehicle Code, relating to weight fees.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 9700 of the Vehicle Code is amended to read:

9700. With respect to vehicles subject to additional registration fees under Section 9400, a proportionate share of such fees may be paid for a quarterly registration period, which periods shall expire on March 31, June 30, September 30, and December 31 of each year, except that such fees for trucks and trailers used exclusively to transport agricultural products upon the highway may be paid for three consecutive calendar months irrespective of any calendar quarters.

CHAPTER 1221

An act to amend Sections 105, 17065, and 21745 of, and to add Sections 20202, 20203, 21060, 21060.5, and 21060.7 to, the Food and Agricultural Code, relating to livestock.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 105 of the Food and Agricultural Code is amended to read:

105. The chief of the division of the department who has

jurisdiction over livestock and poultry disease control, meat inspection and dairy inspection and control shall officially designate a department employee as "State Veterinarian." Such designated person shall be a graduate of a recognized college of veterinary medicine, be licensed to practice in this state, and have a state civil service classification of veterinary medical officer III or above.

SEC. 1.5. Section 17065 of the Food and Agricultural Code is amended to read:

17065. If the owner is not found, and the estimated value of the animal exceeds one hundred twenty-five dollars ($125), the director shall cause a notice of the taking up of the animal to remain posted for a period of three weeks on a bulletin board in each office of the Bureau of Livestock Identification. In addition to posting the notice, the director shall periodically publish a list of the brands and descriptions of the branded animals in the classified section of a livestock industry publication which is in general circulation throughout the State of California.

SEC. 2. Section 20202 is added to the Food and Agricultural Code, to read:

20202. The person in custody of any records required to be kept by any provision of Divisions 9 (commencing with Section 16301), 10 (commencing with Section 20001), or 11 (commencing with Section 23001) shall exhibit such records upon demand by any inspector or peace officer.

Such records include, but are not limited to, the following documents:

(a) Brand inspection certificates.

(b) Bills of sale or bills of consignment.

(c) Truck invoices and bills of lading.

(d) Shipping and receiving slips.

(e) Sales invoices or certificate of sale.

SEC. 3. Section 20203 is added to the Food and Agricultural Code, to read:

20203. It is unlawful for any person to refuse to exhibit any records to any inspector or peace officer who is acting in accordance with the provisions of Section 20202.

SEC. 4. Section 21060 is added to the Food and Agricultural Code, to read:

21060. Inspection is not required in cases where the cattle being moved or transported are dairy calves, and such calves meet all of the following classifications:

(a) The calves were born on a dairy farm as defined in Section 32505.

(b) The calves were born to cows of a recognized dairy breed.

(c) The umbilical cord is still a part of, and attached to, the navel of the calf.

(d) The calves will not be moved or transported:

(1) Out of the state.

(2) To a licensed slaughterhouse in this state.

(3) To a public saleyard or public cattle sale market in this state that is licensed pursuant to Section 21733 or posted by the United States Department of Agriculture under the Packers and Stockyards Act of 1921 (7 U.S.C. 201 et seq.).

Nothing in this section shall prohibit any inspector or peace officer from inspecting any calves when such inspection is necessary in accordance with the provisions of Sections 20432, 20435, 20436, and 20438.

SEC. 5. Section 21060.5 is added to the Food and Agricultural Code, to read:

21060.5. Any calves not exempt from inspection pursuant to Section 21060, shall be inspected in accordance with the provisions of Sections 21051 and 21052.

SEC. 6. Section 21060.7 is added to the Food and Agricultural Code, to read:

21060.7. It is unlawful for any person to move or transport any calves exempt from inspection pursuant to Section 21060 without preparing the bill of sale or consignment that is required by Sections 21702 and 21703. Such bill of sale or consignment shall accompany the calves and be retained by the receiver of the calves for at least one year, and such documents shall be presented to any inspector or peace officer upon demand.

SEC. 7. Section 21745 of the Food and Agricultural Code is amended to read:

21745. The bill of sale or certificate of sale which is required pursuant to Section 21744 shall contain all of the following information on a form that is approved by the chief:

(a) Date of sale.

(b) Name and address of the buyer.

(c) Description of each animal that is sold which includes its brands and brand location, sex, and breed of unbranded animals.

(d) Origin and destination of the animals.

(e) The name of the person conducting the sale.

The bill of sale or certificate of sale shall be kept by the seller for a period of one year after the date of sale. Any such document shall be exhibited on the demand of any peace officer or any agent of the department.

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 governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1222

An act to amend Sections 58771, 58775, 58777, 58892, 58926, 58935, 59231, 59953, and 59957 of the Food and Agricultural Code, relating to marketing orders.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 58771 of the Food and Agricultural Code is amended to read:

58771. If the director has reason to believe that the issuance of a marketing order, or amendments to an existing marketing order, will tend to effectuate the declared policy of this chapter with respect to any commodity, he shall, either upon his own motion or upon application of any producer or handler of such commodity, or any organization of such persons, give notice of not less than 30 days for a public hearing upon a proposed marketing order or such amendments to such existing marketing order. In an emergency situation requiring urgent action, the director may, upon citing the nature of the emergency in the notice, give less than 30 days' notice.

SEC. 2. Section 58775 of the Food and Agricultural Code is amended to read:

58775. To provide the director with accurate and reliable information, if such information is not then on file in the department, regarding the persons that may be directly affected by the provisions of any proposed marketing order for any commodity, the director shall, if he has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of this chapter, or upon receipt of a written application for a hearing pursuant to Section 58771, notify all handlers of such commodity to file with the director, within 15 days from the last date of such notice, a report, properly certified, which shows all of the following:

(a) The correct name and address of such handler.

(b) The quantities of the commodity that are affected by such proposed marketing order which were handled by such handler in the marketing season next preceding the filing of such report.

(c) The correct name and address of every producer of such commodity, that may be directly affected by such proposed marketing order, from whom such handler received such commodity in the marketing season next preceding the filing of such report.

(d) The quantities of such commodity which were received by such handler from each such producer in the marketing season next preceding the filing of such report.

SEC. 3. Section 58777 of the Food and Agricultural Code is amended to read:

58777. The director shall mail a copy of such notice to file such

report to every handler of such commodity whose name and address appears upon the lists on file in the department, of handlers that may be directly affected by the provisions of such proposed marketing order.

SEC. 3.5. Section 58892 of the Food and Agricultural Code is amended to read:

58892. A marketing order may contain provisions for carrying on research studies in the production, processing, or distribution of any commodity and for the expenditure of moneys for such purposes. In any research in production or processing which is carried on pursuant to this section, the Vice President for Agricultural Sciences of the University of California and the advisory board which is provided for in Article 8 (commencing with Section 58841) of this chapter shall cooperate in selecting the research project which is to be carried on from time to time. Insofar as practicable, the projects shall be carried out by such college of agriculture, but if the vice president and the advisory board determine that the college has no facilities for a particular project, or that some other research agency has better facilities for it, the project may be carried out by any other research agency which is selected by the vice president and the advisory board.

SEC. 4. Section 58926 of the Food and Agricultural Code is amended to read:

58926. In lieu of the assessments to defray the costs of formulation, issuance, administration, and enforcement and advertising or sales promotion provided for in Section 58921, if the marketing order contains provisions for advertising or sales promotion as authorized in this chapter, the director may approve and fix an assessment for producers and an assessment for handlers as the case may be, not exceeding 6½ percent of the gross dollar volume of sales of such commodity by all producers, or by all processors, distributors, or other handlers of such commodity regulated by such marketing order during the marketing season during which such marketing order is effective. The method and manner of assessment and collection of such assessment, and the limitations and restrictions applicable thereupon, shall conform in all respects with the provisions of this article regarding assessments for advertising and sales promotion, except as to the maximum amount of such assessment.

SEC. 5. Section 58935 of the Food and Agricultural Code is amended to read:

58935. For the convenience of making collections of any producer assessments which are established pursuant to this article, the director may collect such assessments from the handlers of the commodity which is being regulated. Any handler that pays any such assessments for and on behalf of any producer may deduct such producer assessments from any money which is owed by such handler to such producer. Any marketing order may require a handler to deduct producer assessments from any money which is

owed by such handler to such producer. Such producer assessment deductions are hereby declared to be trust funds held by the handler for the purposes of the marketing order concerned and shall be remitted timely, with assessment reports, to the director.

SEC. 6. Section 59231 of the Food and Agricultural Code is amended to read:

59231. Any action for any penalty or other remedy which is prescribed under any provision of this chapter shall be commenced within three years from the date of the alleged violation.

SEC. 7. Section 59953 of the Food and Agricultural Code is amended to read:

59953. Unless otherwise requested by the marketing program committee, the director is not required to issue refunds to any producer in an amount less than five dollars ($5).

SEC. 8. Section 59957 of the Food and Agricultural Code is amended to read:

59957. Upon the recommendation of the marketing program committee, the director may relieve the proration zone agent of the responsibility of collecting any amount which is due and unpaid not exceeding five dollars ($5) if the director determines that the collection is improbable or the cost of collecting would exceed the amount which is involved.

SEC. 9. Section 3.5 of this act shall not become operative if Assembly Bill No. 3480 of the 1975–76 Regular Session is chaptered and becomes effective.

CHAPTER 1223

An act to amend Sections 12112, 12121, 12801, 12817, 14002, and 14012 of, and to repeal Sections 11409 and 12109 of, the Food and Agricultural Code, relating to pesticides.

[Approved by Governor September 21, 1976 Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 11409 of the Food and Agricultural Code is repealed.

SEC. 2. Section 12109 of the Food and Agricultural Code is repealed.

SEC. 3. Section 12112 of the Food and Agricultural Code is amended to read:

12112. Notwithstanding the provisions of Section 11513, 50 percent of the moneys derived under this chapter shall be available to the director to cover the costs of establishing and administering the pesticide dealer's licensing program pursuant to the provisions of this chapter. The director shall pay 50 percent of the moneys

collected to the counties which employ agricultural commissioners and the moneys shall be used by the counties for the enforcement and administration of the provisions of this chapter. The department shall determine and pay to each county one-half of such deposited application fees and renewal fees that are received from applicants whose principal address at the time of payment as determined by the director was located in said county, and the amount of such payments to counties is hereby appropriated from the Department of Agriculture Fund.

SEC. 4. Section 12121 of the Food and Agricultural Code is amended to read:

12121. No person who is subject to this division shall do any of the following:

(a) Fail to demonstrate to the director that he is qualified to act in the capacity of a pesticide dealer.

(b) Fail to notify the director of any transfer or change of address.

(c) Fail to comply with the provisions of this article or of rules and regulations issued under this article.

(d) Make false or fraudulent statements, or misrepresent or fail to disclose any material fact in making application for a license or renewal of license.

(e) Make any false or misleading statements or promises of a character likely to influence, induce, or deceive, or publish or cause to be published or distributed or displayed any false or misleading literature or advertisement, concerning any pesticide or method of pest control.

SEC. 5. Section 12801 of the Food and Agricultural Code is amended to read:

12801. This chapter does not apply to any preparation, drug, or chemical which is intended to be used or sold solely for medicinal use by humans, or for toilet purposes, or to commercial feed as defined in Section 14925.

SEC. 6. Section 12817 of the Food and Agricultural Code is amended to read:

12817. Every license and registration expires on December 31st of each year except when renewal is applied for within one month thereafter in the manner which is provided for registration and licensing.

SEC. 7. Section 14002 of the Food and Agricultural Code is amended to read:

14002. This chapter applies to all agencies of the United States and the State of California and its subdivisions or to their officers, agents, or employees. Nothing in this section affects the liability of a public entity under Section 862 of the Government Code.

SEC. 8. Section 14012 of the Food and Agricultural Code is amended to read:

14012. Any person, who is required to register economic poisons under Article 4 (commencing with Section 12811) of Chapter 2 of Division 7, and who sells or transfers any restricted material, shall

keep accurate records of the amount and type of material involved in every sale or transfer of any restricted material. Such records shall be open during ordinary business hours to the inspection of the director. In addition each commissioner shall report to the director the type and amount of restricted materials for which permits are issued pursuant to Chapter 3 (commencing with Section 14001), Division 7, the crop and pest or pests on which the material is used, and any other relevant information the director may require. Reports from the commissioners shall be rendered to the director quarterly within one calendar month after March 31, June 30, September 30, and December 31, of each year.

The contents of these reports shall be summarized quarterly by the director as to the type of material and amounts, and such summaries shall be made a public record. The director may publish or distribute such summaries.

SEC. 9. Nothing in Division 13 (commencing with Section 21000) of the Public Resources Code shall be construed to apply to any action or activity governed by Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

This section shall remain in effect only until January 1, 1978, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1978, deletes or extends such date.

In enacting this section, the Legislature does not intend any comment upon the issues raised in Attorney General's Opinion No. SO 75/16.

SEC. 10. 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 governmental entities and school districts which in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1224

An act to amend Sections 14203, 14204, 14205, 14206, 14207, 14208, 14231, 14261, 14262, 14281, 14282, 14283, 14284, 14285, 14286, 14288, 14289, 14290, 14291, 14293, 14294, 14295, 14296, 14321, 14323, 14325, 14326, 14327, 14328, 14329, 14330, 14351, 14352, 14353, 14354, 14355, 14356, 14357, 14358, and 14359 of, to amend the heading of Chapter 4 (commencing with Section 14201) of Division 7 of, to amend the heading of Article 5 (commencing with Section 14321) of Chapter 4 of Division 7 of, to amend and renumber the heading of Article 1 (commencing with Section 14201) of Chapter 4 of Division 7 of, to add Sections 14209, 14360, 14361, 14362, and 14382 to, to add Article 1 (commencing with Section 14200) to Chapter 4 of Division 7 of, and

to add Article 8 (commencing with Section 14390) to Chapter 4 of Division 7 of, the Food and Agricultural Code, relating to livestock drugs, and making an appropriation therefor.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976]

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

SECTION 1. The heading of Chapter 4 (commencing with Section 14201) of Division 7 of the Food and Agricultural Code is amended to read:

CHAPTER 4. LIVESTOCK DRUGS

SEC. 2. Article 1 (commencing with Section 14200) is added to Chapter 4 of Division 7 of the Food and Agricultural Code, to read:

Article 1. Legislative Intent

14200. The Legislature hereby declares that this chapter, which prescribes the distribution and use of livestock drugs, is intended to assure that such drugs are available to livestock producers for their use in protecting the health of the livestock population of the state, and that such use will in turn benefit the general public by providing an abundant supply of wholesome food and fiber.

It is further declared that nothing in this chapter is intended to prevent a livestock producer from administering livestock drugs safely and effectively when such use is in accordance with the labeling directions for the drug used.

SEC. 3. The heading of Article 1 (commencing with Section 14201) of Chapter 4 of Division 7 of the Food and Agricultural Code is amended and renumbered to read:

Article 1.5. Definitions

SEC. 4. Section 14203 of the Food and Agricultural Code is amended to read:

14203. "Restricted drug" means any livestock drug which is sold in such form that it might be administered to humans and if so administered would be dangerous to the health of such humans or any livestock drug which if improperly administered to livestock is dangerous to the health of such livestock or to humans who consume products from such livestock. Restricted drugs include all of the following:

(a) Arsenic compounds and preparations.

(b) Diethylstilbestrol and other substances which have a hormonelike action.

(c) Sulfanilamide or substitute sulfanilamides.

(d) Antibiotic preparations.

(e) Such other drugs and their preparations which the director determines are hazardous to the health of livestock or the public safety.

SEC. 5. Section 14204 of the Food and Agricultural Code is amended to read:

14204. "Label" includes written and graphic matter which is imprinted upon, or upon paper or other material affixed to, or accompanying, a container of a livestock drug.

SEC. 6. Section 14205 of the Food and Agricultural Code is amended to read:

14205. "Livestock" includes all animals, poultry, and bees, and aquatic and amphibian species which are raised, kept, or used for profit. It does not include those species which are usually kept as pets, such as dogs, cats, and pet birds.

SEC. 7. Section 14206 of the Food and Agricultural Code is amended to read:

14206. "Livestock drug" means any drug, combination of drugs, proprietary medicine, or combination of drugs and other ingredients which is prepared for administration to livestock orally, hypodermically, topically, or otherwise.

SEC. 8. Section 14207 of the Food and Agricultural Code is amended to read:

14207. "Manufacturer" includes any person that is responsible for the placing of a livestock drug on the market in this state.

SEC. 9. Section 14208 of the Food and Agricultural Code is amended to read:

14208. "Retailer" means any person that sells any livestock drug at retail.

SEC. 10. Section 14209 is added to the Food and Agricultural Code, to read:

14209. "Distribute" means to offer for sale, sell, exchange, or barter.

SEC. 11. Section 14231 of the Food and Agricultural Code is amended to read:

14231. The director shall enforce this chapter and, in accordance with the provisions of Section 14200, may make and enforce such regulations which relate to the manufacture, sale, and use of livestock drugs as he may deem necessary to carry out this chapter.

SEC. 12. Section 14261 of the Food and Agricultural Code is amended to read:

14261. This chapter does not apply to any of the following:

(a) Any livestock drug which is sold exclusively to, and used exclusively by, or under the direction of, a licensed veterinarian, nor to any livestock drug which is compounded by a registered pharmacist upon the prescription of a licensed veterinarian.

(b) Any drug or other preparation which is dispensed or compounded by a registered pharmacist at the request of the purchaser if such drug or preparation is sold at retail.

(c) Any commercial feed which is subject to the provisions of Chapter 6 (commencing with Section 14901) of this division, irrespective of the presence in such commercial feed of any ingredients which otherwise would constitute a livestock drug.

SEC. 13. Section 14262 of the Food and Agricultural Code is amended to read:

14262. This chapter also does not apply to any of the following:

(a) Any livestock drug which is intended for, and which is used solely for, laboratory or experimental purposes.

(b) Any substance which is intended for, and which is used primarily as, a pesticide and which is registered as an economic poison under Chapter 2 (commencing with Section 12751) of this division.

(c) Any biological product which is manufactured under a license issued by the United States Department of Agriculture or the State Department of Health.

(d) Any drug which is required by federal law to be sold on prescription only.

SEC. 14. Section 14281 of the Food and Agricultural Code is amended to read:

14281. A person shall not sell any livestock drug in this state which is not registered pursuant to this chapter.

SEC. 15. Section 14282 of the Food and Agricultural Code is amended to read:

14282. The manufacturer of any livestock drug shall apply to the director for registration of the livestock drug.

SEC. 16. Section 14283 of the Food and Agricultural Code is amended to read:

14283. The application shall be in a form which is supplied by the director. It shall show all of the following:

(a) The name of the applicant and the address of his principal place of business.

(b) The name, brand, or trademark under which the livestock drug is to be sold.

(c) The minimum net contents of each size and type of container in which the livestock drug is to be sold at retail.

(d) The name of each active drug ingredient and the quantity or proportion of each such ingredient.

(e) A statement of each purpose for which the livestock drug is to be used.

(f) A statement of the form in which the livestock drug is to be administered, the method of administration, and, if the method of administration involves the use of any special device which is supplied with such drug, a description of such device.

(g) A statement of the amount and frequency of the dosage which is to be recommended.

(h) Such other information and data as the director may require.

SEC. 17. Section 14284 of the Food and Agricultural Code is amended to read:

14284. The application shall also contain a detailed description, or be accompanied by a copy, of the label of each type and size of container in which the livestock drug is to be sold at retail.

SEC. 18. Section 14285 of the Food and Agricultural Code is amended to read:

14285. The label shall contain all of the following:

(a) The name, brand, or trademark of the livestock drug.

(b) The name of the applicant and his principal address.

(c) The minimum net contents of the container.

(d) A statement of the disease or ailments of livestock which it is claimed that the livestock drug will alleviate or cure.

(e) Adequate instructions as to use and administration and adequate warnings against improper use and administration of the livestock drug, including adequate withdrawal periods and product disposal times to prevent any dangerous drug residues in products produced by livestock for human consumption.

(f) The name and amount of each active drug ingredient.

(g) A statement which clearly indicates that the product is not for human use.

(h) If the livestock drug is a restricted drug, the words "restricted drug, use only as directed" in conspicuous letters.

(i) Such other information as the director may require to ensure proper use to safeguard the health of animals and humans who consume products from such animals.

SEC. 19. Section 14286 of the Food and Agricultural Code is amended to read:

14286. If it is proposed that any instructions for use, other than those on the label, shall accompany containers of the livestock drug which are sold at retail, a copy of such instructions shall accompany the application for registration of the livestock drug.

SEC. 20. Section 14288 of the Food and Agricultural Code is amended to read:

14288. The director shall refuse to register a livestock drug if he finds any of the following is true of the drug:

(a) It is of little or no value for the purpose for which it is intended to be used.

(b) It is dangerous to the health of livestock if used in accordance with the instructions.

(c) The instructions for use do not contain adequate warnings against use in those conditions, whether pathological or normal, under which its use may be dangerous to the health of livestock or humans who consume products from such livestock, or against unsafe dosage, unsafe duration of use, or unsafe methods of administration.

(d) If the application and the accompanying material, data, and information do not comply with the requirements of this chapter or are insufficient to permit the director to make the determinations which are required by this section.

SEC. 21. Section 14289 of the Food and Agricultural Code is amended to read:

14289. If the livestock drug is a restricted drug, the director shall also refuse registration if he finds that the instructions for use do not contain adequate and satisfactory directions as to the methods of handling, caring for, holding, or otherwise managing the livestock to which the drug is administered so as to eliminate any danger to the health of any person who might consume food products which are derived from such livestock.

SEC. 22. Section 14290 of the Food and Agricultural Code is amended to read:

14290. The registration of a livestock drug includes all of the following:

(a) Registration of the drug and its ingredients.

(b) Registration of the label.

(c) Registration of the instructions for use.

(d) Registration of the special device, if any, for the administration of the livestock drug.

SEC. 23. Section 14291 of the Food and Agricultural Code is amended to read:

14291. The fee for registration of a livestock drug is forty dollars ($40). It shall accompany the application for registration. The fee is not refundable if the registration is refused.

SEC. 24. Section 14293 of the Food and Agricultural Code is amended to read:

14293. The fee for application for renewal of registration is forty dollars ($40) per year. It is payable on or before January 31st of each year. If it is not so paid, a penalty of ten dollars ($10) shall be added to the fee.

SEC. 25. Section 14294 of the Food and Agricultural Code is amended to read:

14294. The director may quarantine and remove from sale any livestock drug which is not registered pursuant to this chapter or any livestock drug which does not conform in all respects with its registration.

SEC. 26. Section 14295 of the Food and Agricultural Code is amended to read:

14295. The director shall have access at all reasonable hours to all premises which are used in the manufacture, sale , or storage of any livestock drug, or where livestock drugs are mixed in feed for administering to livestock. He may take samples and make such other investigations as are necessary to carry out this chapter and the regulations which are adopted pursuant to it.

SEC. 27. Section 14296 of the Food and Agricultural Code is amended to read:

14296. The director may revoke the registration of any livestock drug if he finds, from representative samples, that the drug as offered for sale fails to conform to its registration. The director may allow reasonable tolerances within which such samples may vary from the registration.

SEC. 28. The heading of Article 5 (commencing with Section

14321) of Chapter 4 of Division 7 of the Food and Agricultural Code is amended to read:

Article 5. Retail Licenses for Restricted Drugs

SEC. 29. Section 14321 of the Food and Agricultural Code is amended to read:

14321. A person shall not sell any restricted drug in this state at retail unless he holds a license to do so issued pursuant to this chapter.

SEC. 30. Section 14323 of the Food and Agricultural Code is amended to read:

14323. The application shall be accompanied by an application fee of twenty-five dollars ($25). The fee is not refundable if the license is refused.

SEC. 31. Section 14325 of the Food and Agricultural Code is amended to read:

14325. The fee for the renewal application for a license is twenty-five dollars ($25) per year. It is payable on or before January 31st of each year. If it is not so paid, a penalty of ten dollars ($10) shall be added to the fee.

SEC. 32. Section 14326 of the Food and Agricultural Code is amended to read:

14326. A separate license is required for each place of business at which any restricted drug is kept for sale, and for each mobile unit in which any such drug is kept for sale.

SEC. 33. Section 14327 of the Food and Agricultural Code is amended to read:

14327. The director may make an examination of the facilities which are available to the applicant for the proper handling and storing of restricted drugs and may limit the kinds or classes of such drugs that may be sold under a license to those which the applicant is equipped properly to handle and store.

SEC. 34. Section 14328 of the Food and Agricultural Code is amended to read:

14328. Each holder of a license under this chapter shall keep a record, in the manner and form prescribed by the director, of each sale of a restricted drug by the licensee.

SEC. 35. Section 14329 of the Food and Agricultural Code is amended to read:

14329. The record required pursuant to Section 14328 shall include all of the following:

(a) A statement of the kind and quantity of the restricted drug sold.

(b) The date of sale.

(c) The name and address of the purchaser.

(d) The signature of the purchaser.

(e) Any other information as the director may determine is reasonably necessary to carry out the provisions of this chapter.

SEC. 36. Section 14330 of the Food and Agricultural Code is

amended to read:

14330. The director shall revoke a restricted drug license if he finds that the holder of such license has failed to keep the required record of sales of such drugs, or is not properly handling or storing such drugs.

SEC. 37. Section 14351 of the Food and Agricultural Code is amended to read:

14351. It is unlawful for any person to sell any livestock drug which is subject to any provision of this chapter unless the drug is registered pursuant to this chapter.

SEC. 38. Section 14352 of the Food and Agricultural Code is amended to read:

14352. It is unlawful for any registrant to sell any livestock drug which does not conform with its registration.

SEC. 39. Section 14353 of the Food and Agricultural Code is amended to read:

14353. It is unlawful for any person to administer any registered livestock drug to any human being.

SEC. 40. Section 14354 of the Food and Agricultural Code is amended to read:

14354. It is unlawful for any person to sell any restricted drug unless such person has a license issued pursuant to this chapter.

SEC. 41. Section 14355 of the Food and Agricultural Code is amended to read:

14355. It is unlawful for any person to use or administer any registered livestock drug except in accordance with the label instructions for use which are supplied by the registrant, including all warnings, withdrawal periods, and livestock product disposal times.

SEC. 42. Section 14356 of the Food and Agricultural Code is amended to read:

14356. It is unlawful for the holder of a restricted drug license to sell a restricted drug without requiring the purchaser of the restricted drug to sign his name and write his address in the record of such sales.

SEC. 43. Section 14357 of the Food and Agricultural Code is amended to read:

14357. It is unlawful for any person to refuse to permit the entry into and inspection of any premises wherein any livestock drug is manufactured or sold for the taking of samples of such drug.

SEC. 44. Section 14358 of the Food and Agricultural Code is amended to read:

14358. It is unlawful for any person to sell any livestock drug except in the container in which it is packaged by the manufacturer or distributor or to sell any such drug unless its package bears the label of the manufacturer or distributor.

SEC. 45. Section 14359 of the Food and Agricultural Code is amended to read:

14359. It is unlawful for any person to make any false or

misleading representation which relates to any livestock drug, whether such representation is communicated orally, graphically, pictorially, or otherwise.

SEC. 46. Section 14360 is added to the Food and Agricultural Code, to read:

14360. It is unlawful for any livestock owner or his agent to sell or dispose of treated livestock or livestock products within the specified withdrawal period without first notifying the buyer that such livestock or products has been treated. Such notification shall be in a form prescribed by the director by regulation.

SEC. 47. Section 14361 is added to the Food and Agricultural Code, to read:

14361. The director may seize and hold any livestock drug which he has reasonable cause to believe is in violation of the provisions of this chapter or the regulations adopted pursuant to it. The director shall continue to hold the livestock drug until such time as the requirements of this chapter have been complied with, at which time the lot shall be released. If the requirements of this chapter cannot be complied with, the director shall issue an order for disposal of the livestock drug, in a manner determined by him to protect the public health and safety and accomplish purposes of this chapter.

SEC. 48. Section 14362 is added to the Food and Agricultural Code, to read:

14362. It is unlawful for any person to manufacture, distribute, sell, or use any livestock drug without complying with the provisions of this chapter and the regulations which are adopted pursuant to it.

SEC. 49. Section 14382 is added to the Food and Agricultural Code, to read:

14382. The director may, after hearing, refuse to issue or renew, or may suspend or revoke a livestock drug registration or restricted drug license for any violation of this chapter or any regulation which is adopted pursuant thereto. Proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code. Any person so deprived of such license or registration shall have the right to appeal this action to the director.

SEC. 50. Article 8 (commencing with Section 14390) is added to Chapter 4 of Division 7 of the Food and Agricultural Code, to read:

Article 8. Procedure for Prosecution

14390. In addition to the remedies provided in this chapter, the department may bring an action in superior court and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of this chapter or the rules and regulations adopted under this chapter. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of

Civil Procedure. The department shall not, however, be required to allege facts necessary to show or tending to show irreparable damage or loss. The court may require such acts or course of conduct as necessary to effectuate the purpose of this chapter.

SEC. 51. 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 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 and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1225

An act to amend Section 21855 of the Food and Agricultural Code, relating to cattle.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 21855 of the Food and Agricultural Code is amended to read:

21855. Notwithstanding any other provision of law, in any action for the wrongful taking, possessing, harboring, or transporting of cattle, for the driving of cattle off their usual range, or for the killing or slaughter of cattle without the consent of the owner or the person lawfully in possession of such cattle, the detriment caused thereby to the plaintiff shall be four times the value of the cattle at the time of the taking, possessing, harboring, transporting, or driving, or killing or slaughtering thereof, with interest from that time, plus an amount in fair compensation for the time and money properly expended by the plaintiff in pursuit of the cattle.

The provisions of this section shall not apply to a secured party, as defined in Section 9105 of the Commercial Code, when taking possession of cattle pursuant to a security agreement if one of the following conditions has been met prior to movement of any such cattle:

(a) The secured party has requested and received a brand inspection of the cattle covered by the security agreement pursuant to Sections 21051.5 and 21171 of this code.

(b) The secured party has requested the inspection required by subdivision (a) and due to an insufficient amount of time to inspect the cattle prior to their movement, the brand inspector agrees to allow movement of the cattle, with inspection of such cattle to be made at their first destination prior to their commingling with any other cattle.

The inspection performed pursuant to subdivision (a) or (b) shall be conducted for the sole purpose of assuring that the cattle that are moved are the same cattle subject to the security agreement.

In a proper case, which shall include the killing or slaughter of cattle, exemplary damages may be awarded to the plaintiff as provided in Section 3340 of the Civil Code.

The commencement of any criminal prosecution for grand theft of cattle shall not preclude or prevent the commencement of any civil action for damages, as specified in this section.

CHAPTER 1226

An act to add Section 55601.5 to the Food and Agricultural Code, relating to grapes.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 55601.5 is added to the Food and Agricultural Code, to read:

55601.5. (a) Notwithstanding Section 55461, on or before January 10 of each year, every processor who crushes grapes in California shall furnish to the director, on forms provided by the director, a report of the total number of tons of grapes purchased by such processor in California during the preceding crush within each grape pricing district. In the report such tonnage shall be broken down by variety, price, including any bonuses or allowances, and sugar calculations. Every such processor shall also furnish the director, on forms provided by the director, a report of the total number of tons of each variety of grapes crushed during the preceding crush and the average sugar content of each variety within each grape pricing district.

(b) On or before February 25 of every year, each processor who crushes grapes in California shall furnish the director information concerning the final prices, including any bonuses or allowances, paid by variety and grape pricing district to all growers holding reference price contracts in effect prior to January 1, 1977, which payments have not been reported on January 10.

(c) "Grape pricing districts," as used in this section, shall be those districts used by the federal-state cooperative news services, as provided in Section 58231.

(d) The director may not release or otherwise make available any information furnished by an individual processor under this section, except in proceedings brought against such processor by the director for the purpose of enforcing the provisions of this section, or in the

case of a producer who holds any reference price grape purchase contract, to whom there may be furnished, upon request and at a reasonable cost, the information needed to verify the reference price, including any bonuses or allowances, set forth in the contract.

(e) The director shall enforce the collection of such information and shall, on or before February 10 of each year, publish a preliminary summary report on the preceding crush. Such report shall include: (1) the weighted average price paid on the basis of the prices, including any bonuses or allowances, reported and average sugar content for each grape variety purchased within each grape pricing district; (2) the total number of tons of grapes crushed and the average sugar content for each grape variety within each grape pricing district; and (3) each price category paid, separated by sugar calculations, if any, and the percentage each represents of the total for each variety within each grape pricing district. On or before March 10 of each year, the director shall publish a final summary report, which report shall contain all of the data furnished by the processors on or before January 10 and on or before February 25 of each year covering purchases under reference price contracts.

(f) The forms provided to processors by the director pursuant to this section shall provide for the separate reporting of grapes used by a processor (1) as distilling material and (2) for both beverage brandy and other than beverage brandy. A processor shall report all grapes used as distilling material by variety. The director, in determining the weighted average price paid for each grape variety purchased within each grape pricing district, shall not include the prices paid for grapes of any variety used as distilling material for other than beverage brandy in determining such weighted average price. The director's report shall include a separate summary regarding grapes used by processors as distilling material.

(g) All grape purchase contracts entered into on or after January 1, 1977, shall provide for a final price, including any bonuses or allowances, to be set on or before the January 10 following delivery of the grapes purchased. Any grape purchase contract entered into in violation of this provision is illegal and unenforceable. For the purpose of this section, a grape purchase contract shall not include any existing supply contract between a nonprofit cooperative association and a commercial processor.

(h) If the director finds that any processor has failed, refused, or neglected to provide the information required herein, the director may proceed in accordance with Sections 55721 and 55722.

(i) The willful failure of any processor to report to the director, as required by this section, shall constitute a violation of this chapter and shall be a separate and distinct violation of this chapter for each day such processor fails to meet such reporting requirements.

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 Legislature recognizes that during any legislative session a

41609 28 12 275 88

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 1227

An act to amend Section 65600 of the Food and Agricultural Code, relating to table grapes, and making an appropriation therefor.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

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

SECTION 1. Section 65600 of the Food and Agriculture Code is amended to read:

65600. There is hereby levied and imposed upon all fresh grapes shipped during each marketing season an assessment as fixed by the commission at that amount determined by the commission as reasonably necessary to pay all obligations incurred or to be incurred in accordance with this chapter and as reasonably necessary to carry out the objects and purposes of this chapter; provided, that during any marketing season such assessment shall not exceed $0.004347 per pound ($0.4347 per 100 pounds), computed on net weight when shipped, whether in bulk or loose in boxes or in any other container or packed in any style package.

There shall be exempt from such assessments all shipments of 150 pounds or less of fresh grapes sold or shipped by a producer direct to the consumer.

CHAPTER 1228

An act to add Section 986 to the Civil Code, relating to sales of fine art.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 986 is added to the Civil Code, to read:

986. (a) Whenever a work of fine art is sold and the seller resides in California or the sale takes place in California, the seller or his agent shall pay to the artist of such work of fine art or to such artist's agent 5 percent of the amount of such sale. The right of the artist to receive an amount equal to 5 percent of the amount of such sale is

not transferable and may be waived only by a contract in writing providing for an amount in excess of 5 percent of the amount of such sale.

(1) When a work of art is sold at an auction or by a gallery, dealer, broker, museum, or other person acting as the agent for the seller the agent shall withhold 5 percent of the amount of the sale, locate the artist and pay the artist.

(2) If the seller or agent is unable to locate and pay the artist within 90 days, an amount equal to 5 percent of the amount of the sale shall be tranferred to the Arts Council.

(3) If a seller or his agent fails to pay an artist the amount equal to 5 percent of the sale of a work of fine art by the artist or fails to transfer such amount to the Arts Council, the artist may bring an action for damages within three years after the date of sale or one year after the discovery of the sale, whichever is longer.

(4) Moneys received by the council pursuant to this section shall be deposited in an account in the Special Deposit Fund in the State Treasury.

(5) The Arts Council shall attempt to locate any artist for whom money is received pursuant to this section. If the council is unable to locate the artist and the artist does not file a written claim for the money received by the council within seven years of the date of sale of the work of fine art, the right of the artist terminates and such money shall be transferred to the operating fund of the council as reimbursement to fund programs of the council.

(6) Any amounts of money held by any seller or agent for the payment of artists pursuant to this section shall be exempt from attachment or execution of judgment by the creditors of such seller or agent.

(b) Subdivision (a) shall not apply to any of the following:

(1) To the initial sale of a work of fine art where legal title to such work at the time of such initial sale is vested in the artist thereof.

(2) To the resale of a work of fine art for a gross sales price of less than one thousand dollars ($1,000).

(3) To a resale after the death of such artist.

(4) To the resale of the work of fine art for a gross sales price less than the purchase price paid by the seller.

(5) To a transfer of a work of fine art which is exchanged for one or more works of fine art or for a combination of cash, other property, and one or more works of fine art where the fair market value of the property exchanged is less than one thousand dollars ($1,000).

(c) For purposes of this section, the following terms have the following meanings:

(1) "Artist" means the person who creates a work of fine art.

(2) "Fine art" means an original painting, sculpture, or drawing.

(d) This section shall become operative on January 1, 1977, and shall apply to works of fine art created before and after its operative date.

(e) If any provision of this section or the application thereof to any

person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected, without the invalid provision or application, and to this end the provisions of this section are severable.

SEC. 2. The rights of an artist of a work of fine art to receive payment of an amount equal to 5 percent of the amount of a sale of fine art within the provisions of Section 986 shall be vested at the time of such sale; except that an artist shall have no rights to any payment pursuant to this act, if any provision therein is subsequently repealed so as to remove the provisions for such payment, as to any sale which occurs subsequent to such repeal; and except that, in the event any provision in this act is otherwise subsequently amended or changed, an artist shall have only those rights to payment provided for by such subsequent amendment or change and shall have no rights to any payment pursuant to this act, as to any sale which occurs subsequent to such amendment or change.

CHAPTER 1229

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

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. The sum of seventeen million seven hundred thousand dollars ($17,700,000) is hereby transferred to the State Highway Account in the State Transportation Fund for allocation by the California Highway Commission as follows:

(a) Seven million seven hundred thousand dollars ($7,700,000) from the Abandoned Vehicle Trust Fund to match federal funds available for construction on the National System of Interstate and Defense Highways.

(b) Nine million nine hundred thousand dollars ($9,900,000) from the Driver Training Penalty Assessment Fund to match federal funds which may become available for highway construction.

(c) One hundred thousand dollars ($100,000) from the Abandoned Vehicle Trust Fund to create an environmental unit within the Department of Transportation.

SEC. 2. The state funds made available pursuant to subdivision (a) of Section 1 of this act, together with the federal funds matched by those funds, shall be allocated by the California Highway Commission for the immediate construction of high-priority gap-closure projects, as determined by the commission, on the National System of Interstate and Defense Highways.

0 1923 28 12 355 104

SEC. 3. The state funds made available pursuant to subdivision (b) of Section 1 of this act shall be used to match other federal funds which may be made available to the state for highway construction from (1) federal highway reserves, (2) new release of federal funds, and (3) funds made available through repooling of those funds because other states cannot provide the required matching funds. Both state and federal funds shall be allocated by the California Highway Commission for high-priority gap-closure projects, as determined by the commission, on the state highway system.

SEC. 4. (a) The Legislature finds and declares that the project environmental review process is of the upmost importance in the orderly and equitable development of a public works project. The Legislature further finds that, given fixed highway resources and high rates of inflation, unnecessary delay of high-priority highway projects represents a waste of state funds. The Legislature further finds that many delays in the environmental review of a highway project are not related to substantive environmental issues but rather to institutional delays, particularly at the interface between points of the process.

(b) Therefore, the environmental unit in the Department of Transportation funded by the funds made available pursuant to subdivision (c) of Section 1 of this act shall be used only for the purpose of expediting the environmental clearances of those projects funded by this act. The environmental unit shall emphasize the rapid environment review, in conformance with required statutes and rules and regulations, of the projects funded by this act.

(c) The environmental unit shall submit a one-page weekly report on the progress made during the previous week in expediting the environmental clearances of the projects to the President pro Tempore of the Senate, the Speaker of the Assembly, the Secretary of the Business and Transportation Agency, and the Director of Transportation and, upon securing environmental clearances for all the projects, shall submit to them a report not to exceed 10 pages of its experience in securing the environmental clearances and its recommendation on how the environmental clearance process can be improved.

(d) Upon submission of the final report, the environmental unit shall be abolished.

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 maximum amount of funds may be made available for state highway construction, it is necessary that this act take effect immediately.

0 1923 28 12 370 107

CHAPTER 1230

An act to amend Sections 14143.5 and 14306 of, and to add Section 14105 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 14105 is added to the Revenue and Taxation Code, to read:

14105. (a) Notwithstanding any other provision of this chapter, any tax imposed on the transfer of property which results in undue hardship as defined in Section 14143.5 may, at the option of the taxpayer and with the written consent of the Controller, where such written consent is incorporated into the decree of distribution, be paid in 10 annual installments. The first installment, together with any interest due, computed on the tax imposed from the delinquency date to the date of payment pursuant to Section 14103, shall be paid on or before the delinquency date or a date specified in a written agreement with the Controller pursuant to Section 14143.5, whichever is later. Each subsequent installment shall be in an amount of not less than 10 percent of the tax imposed and shall be paid, together with interest computed on the unpaid balance, on or before the anniversary date of the first installment payment. The entire unpaid balance and interest shall become due and payable if payment is not made in a timely manner.

(b) Any tax paid under this section shall bear interest, at the rate imposed by Section 14211, from the date it is due and payable and until it is paid.

(c) Except as to any transferred property released from the lien of the tax pursuant to Section 14308, the extension provided by this section shall be authorized only so long as the transferees, or their heirs who would qualify under this section for an extension, shall own the transferred property. Except as to property released from the lien of the tax pursuant to Section 14308, upon transfer of such property to any person, all deferred taxes and interest thereon shall immediately become due and payable.

SEC. 2. Section 14143.5 of the Revenue and Taxation Code is amended to read:

14143.5. If the Controller finds that payment of any tax imposed by this part as a prerequisite to distribution would result in undue hardship to the estate, he may enter into a written agreement for payment of the tax with the executor, administrator, trustee or transferee liable for its payment upon such terms and conditions as the Controller in his discretion may provide, and provided that the Controller finds that payment of the tax plus interest due thereon is adequately secured. Upon filing such agreement with the Controller

and court having jurisdiction, the court shall incorporate the agreement in the final decree of distribution and the estate of the person who made the transfer on which the tax is imposed may be distributed.

Undue hardship shall include, but not be limited to, the hardship resulting from the payment of taxes imposed pursuant to the provisions of this part on Class A beneficiaries on a qualified family property, and shall include the inability to secure a loan against such qualified property at a rate of interest at the rate specified in Section 14211 or less or the necessity for selling an interest in a family business to unrelated persons.

Qualified family property is defined as property which has been used primarily in the operation of a family business or farm.

For purposes of this section, family business is defined as:

(a) An interest as a proprietor in a trade or business carried on as a proprietorship, or

(b) An interest as a partner in a partnership carrying on a trade or business if

(1) 50 percent or more of the total capital interest in such partnership was owned by the transferor and his or her spouse, lineal ancestor, lineal issue or mutually acknowledged child, and

(2) Such partnership had 10 or less partners.

(c) Stock in a corporation carrying on a trade or business if:

(1) 50 percent or more in value of the voting stock of such corporation was owned by the decedent and his or her spouse, lineal ancestor, lineal issue or mutually acknowledged child, and

(2) Such corporation had 10 or less shareholders.

SEC. 3. Section 14306 of the Revenue and Taxation Code is amended to read:

14306. (a) Upon the approval of a bond for the deferment of payment of the tax imposed on a transfer subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the transferee may, in whole or in part, be created, defeated, extended, or abridged, the lien upon the property included in the transfer ceases.

(b) Upon entry of a decree of distribution incorporating the consent of the Controller pursuant to Section 14105 or an agreement entered into pursuant to Section 14143.5, which consent or agreement provides for the deferment of the tax imposed by this part, the lien upon property not subject to such consent or agreement ceases.

CHAPTER 1231

An act to amend Sections 11423 and 11424 of the Government Code, relating to administrative regulations.

[Approved by Governor September 22, 1976 Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 11423 of the Government Code is amended to read:

11423. At least 30 days prior to the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be:

(a) Published in such newspaper of general circulation, trade or industry publication, as the state agency shall prescribe.

(b) Filed with the Senate Committee on Rules and the Speaker of the Assembly.

(c) Mailed to every person who has filed a request for notice thereof with the state agency.

(d) In cases in which the state agency is within a state department, mailed or delivered to the director of such department.

(e) When appropriate in the judgment of the state agency, (1) mailed to any person or group of persons whom the agency believes to be interested in the proposed action and, (2) published in such additional form and manner as the state agency shall prescribe.

(f) Delivered to the Office of Administrative Hearings for publication in the next issue of the California Administrative Register as prepared by that office.

Where the form or manner of notice is prescribed by statute in any particular case, in addition to filing and mailing notice as required herein, the notice shall be published, posted, mailed, filed or otherwise publicized as prescribed by that statute.

The failure to mail notice to any person as provided in this section shall not invalidate any action taken by a state agency pursuant to this article. The provisions of Article 5 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the publication of newspaper notices under this section.

SEC. 2. Section 11424 of the Government Code is amended to read:

11424. The notice of proposed adoption, amendment, or repeal of a regulation shall include:

(a) A statement of the time, place, and nature of proceedings for adoption, amendment, or repeal of the regulation;

(b) Reference to the authority under which the regulation is proposed and a reference to the particular code sections or other provisions of law which are being implemented, interpreted, or made specific;

(c) Either the express terms or an informative summary of the proposed action;

(d) An estimate, prepared as prescribed by the Department of Finance, of the cost to any local agency or school district that is required to be reimbursed under the provisions of Section 2231 of the Revenue and Taxation Code.

(e) Such other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

CHAPTER 1232

An act to add Section 40901 to the Vehicle Code, relating to offenses and prosecution.

[Approved by Governor September 22, 1976 Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 40901 is added to the Vehicle Code, to read:

40901. (a) A court, pursuant to this section, may by rule provide for the trial of any alleged infraction involving a violation of this code or any local ordinance adopted pursuant to this code.

(b) The rules governing such trials may provide for testimony and other relevant evidence to be introduced in the form of a notice to appear issued pursuant to Section 40500, a notice of violation issued pursuant to Section 41103, and, notwithstanding Division 10 (commencing with Section 1200) of the Evidence Code, a business record or receipt.

(c) Prior to the entry of a waiver of constitutional right pursuant to any rules adopted under this section, the court shall inform the defendant in writing of the nature of the proceedings and of his right to confront and cross-examine witnesses, to subpoena witnesses on his behalf, and to hire counsel at his own expense. The court shall ascertain that the defendant knowingly and voluntarily waives his right to be confronted by the witnesses against him, to subpoena witnesses in his behalf, and to hire counsel on his behalf before proceeding.

(d) In any jurisdiction with a non-English-speaking population exceeding 5 percent of the total population of the jurisdiction in any one language, a written explanation of the procedures and rights under this section shall be available in that language.

(e) Except as set forth above, nothing contained herein shall be interpreted to permit the submission of evidence other than in accordance with the law, nor to prevent courts from adopting other rules to provide for trials in accordance with the law.

CHAPTER 1233

An act to add Section 20570 to the Government Code, relating to the Public Employees' Retirement Law.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 20570 is added to the Government Code, to read:

20570. Notwithstanding any other provision of this article, the board may enter into an agreement with the governing body of a contracting agency, other than a housing authority, and the governing body of a city with a population in excess of 2,000,000 and maintaining its own retirement system for termination of the contracting agency's participation in this sytem and inclusion of the employees in such city retirement system. The agreement shall contain such provisions as the board finds necessary to protect the interests of the system for determination of the amount, time, manner of transfer of cash or the securities or both to be transferred to such city system as representing the value of the interests in the retirement fund of the contracting agency and its employees by reason of contributions and interest credited to such agency and its employees. All liability of this system with respect to members and retired persons under such contract shall cease and shall become the liability of such city system as of the date of termination specified in the agreement. Liability of the city system shall be for payment of benefits to persons retired on the termination date and their beneficiaries and of beneficiaries of deceased members in at least the amount provided under the agency's contract as it was on that date. Such termination shall not affect the contribution rate of any member in any other employment under the system on the date of termination or any retirement allowance or other benefit based on service. Any member who becomes a member of a city system upon such contract termination shall be subject to provisions of this part extending rights to a member or subjecting him to limitations because of membership in another retirement system to the same extent that he would have been had he been a member of the city system during his membership in this system under the terminated contract.

03964 28 12 490 131

CHAPTER 1234

An act to add Section 8654 to the Government Code, relating to disaster relief, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 8654 is added to the Government Code, to read:

8654. (a) Whenever the Governor has proclaimed a state of emergency and the President has declared an emergency or a major disaster to exist in this state, the Governor may:

(1) Enter into purchases, leases, or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster victims and to make such units available to any political subdivision for such purpose.

(2) Assist any political subdivision within which temporary housing for disaster victims is proposed to be located to acquire sites necessary for such temporary housing and to do all things required to prepare such sites to receive and utilize temporary housing units by advancing or lending any funds available to the Governor from any appropriation made by the Legislature or from any other source, by transmitting any funds made available by any public or private agency, or by acting in cooperation with the political subdivision for the execution and performance of any project for temporary housing for disaster victims, and for such purposes to pledge the credit of the state on such terms as he declares necessary under the circumstances, having due regard for current financial obligations of the state.

(3) Under such regulations as he shall make, may temporarily suspend or modify for not to exceed 60 days any public health, safety, zoning, or intrastate transportation law, ordinance, or regulation when by proclamation he declares such suspension or modification essential to provide temporary housing for disaster victims.

(b) Whenever, the President, at the request of the Governor, has declared a major disaster to exist in this state, the Governor may:

(1) Upon his determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, to accept any grant by the federal government to fund such financial assistance, subject to such terms and conditions as may be imposed upon the grant.

(2) Enter into an agreement with the federal government, or any officer or agency thereof, pledging the state to participate in the

funding of any grant accepted pursuant to paragraph (1) of this subdivision, in an amount not to exceed 25 percent thereof and, if state funds are not otherwise available to the Governor, accept an advance of the state share from the federal government to be repaid when the state is able to do so.

(3) Notwithstanding any other provisions of law, the Governor is authorized to make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster which cannot otherwise adequately be met from other means of assistance, which shall not exceed five thousand dollars ($5,000) in the aggregate to an individual or family in any single major disaster declared by the President.

(4) Upon his determination that a local government will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, the Governor may apply to the federal government, on behalf of the local government, for a loan, and may receive and disburse the proceeds of any such loan to the local government.

(5) The Governor may determine the amount needed by a local government to restore or resume its governmental functions, and may certify such amount to the federal government; provided, that no such amount shall exceed 25 percent of the annual operating budget of the local government for the fiscal year in which the major disaster has occurred.

(6) The Governor may recommend to the federal government, after reviewing the matter, the cancellation of all or any part of a loan made pursuant to paragraph (5) of this subdivision when during the period of three full fiscal years immediately following the major disaster, the revenues of the local government are insufficient to meet its operating expenses, including disaster-related expenses incurred by the local government.

(c) The Governor shall make such regulations as are necessary in carrying out the purposes of paragraphs (1), (2), and (3) of subdivision (b), including, but not limited to, standards of eligibility for persons applying for benefits; procedures for application and administration; methods of investigation, processing, and approving applications; formation of local or statewide review boards to pass upon applications; and procedures for appeals.

(d) Any political subdivision is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims, and to enter into whatever arrangements (including purchase of temporary housing units and payment of transportation charges) which are necessary to prepare or equip such sites to utilize the housing units.

(e) Any person who fraudulently makes any misstatement of fact in connection with an application for financial assistance under this

section shall, upon conviction of each offense, be guilty of a misdemeanor punishable by a fine of not more than five thousand dollars ($5,000), or imprisonment for not more than one year, or both.

(f) The terms "major disaster," "emergency," and "temporary housing," as used in this section, shall have the same meaning as such terms are defined or used in the Disaster Relief Act of 1974 (P.L. 93-288, 88 Stat. 143). It is the intent of the Legislature in enacting this section that it shall be liberally construed to effectuate the purposes of the Federal Disaster Relief Act of 1974.

SEC. 2. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code. However, there may be state-mandated local costs resulting from executive orders based on this act in the current and subsequent fiscal years. Such costs can be provided for in accordance with the provisions of Section 2231 of the Revenue and Taxation Code.

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

Since natural disasters may strike the people of this state at any time, it is necessary that this act go into effect at once in order to enable the state and local governments to participate in the federal disaster relief program enacted by the Federal Disaster Relief Act of 1974.

CHAPTER 1235

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

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

I am reducing the appropriation contained in Section 1 of Assembly Bill No. 4509 from $140,000 to $70,000.

The reduced appropriation will be sufficient to fund a one-year project for a sensory motor training program as a transition from the State hospital program to the community-based developmental disability program.

With this reduction, I approve Assembly Bill No. 4509.

EDMUND G. BROWN JR., Governor

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

SECTION 1. The sum of one hundred forty thousand dollars ($140,000) is hereby appropriated from the General Fund to the State Department of Health for expenditure in the 1976–77 fiscal year for contracting with, or for allocation to regional centers for contracting with, appropriate parties for continuation of a sensory motor training program for developmentally disabled persons which provides advice and screening, program design for the client, and program training for professionals, paraprofessionals, and parents with respect to developmentally disabled persons. In the event federal funds or foundation funds are provided for the purposes of such program, the amount available from this appropriation shall be reduced equal to the amount of such funds.

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 that community-based programs providing critical services to developmentally disabled persons may be continued in existence, it is necessary that this act take immediate effect.

CHAPTER 1236

An act to add Section 14108 to the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 14108 is added to the Welfare and Institutions Code, to read:

14108. Any developmentally disabled recipient under this chapter receiving care in a skilled nursing facility or intermediate care facility is entitled as a part of the therapeutic and rehabilitative program, to be temporarily absent from such facilities for periods of time not exceeding a total of 30 days in duration during any calendar year. The 30-day durational period may be used in any increments and at such times as may be appropriate to accomplish the therapeutic and rehabilitative goal of any recipient. A day is defined as 24 hours. Medi-Cal reimbursements shall be made for a recipient during such temporary absence.

SEC. 2. The sum of sixty-one thousand dollars ($61,000) is hereby appropriated from the General Fund to the Health Care Deposit Fund to carry out the provisions of this act from the operative date of this statute to July 1, 1977.

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 developmentally disabled recipients of Medi-Cal in a skilled nursing facility or intermediate care facility may receive the therapeutic and rehabilitative benefits derived from a substantial amount of time away from such facilities, it is necessary that this act take effect immediately.

CHAPTER 1237

An act to amend Sections 6025, 6025.1, 6027, and 6031.2 of, to repeal Section 6025.2 of, and to add Section 6031.5 to, the Penal Code, relating to corrections.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976]

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

SECTION 1. Section 6025 of the Penal Code is amended to read:

6025. (a) The Board of Corrections shall be composed of 11 members, one of whom shall be the Secretary of the Health and Welfare Agency who shall be designated as the chairman, one of whom shall be the Director of Corrections, one of whom shall be the Director of the Youth Authority, and eight of whom shall be appointed by the Governor after consultation with, and with the advice of, the Secretary of the Health and Welfare Agency, and with the advice and consent of the Senate. There shall be one representative from each of the following categories:

(1) A member of a statewide parole board of this state.

(2) A county sheriff.

(3) A county supervisor or county administrative officer.

(4) A chief probation officer.

(5) An employee of a state correctional facility who is involved in either custody or care and treatment.

(6) An administrator of a local community-based correctional program.

(7) Two public members.

(b) Of the members first appointed by the Governor, two shall be appointed for a term of two years, three for a term of three years, and three for a term of four years. The length of the original term to be served by each such member first appointed shall be determined by lot. Their successors shall serve for a term of three years and until appointment and qualification of their successors, each term to commence on the expiration date of the term of the predecessor. The terms of the two persons last appointed as qualified persons, by the Governor with the advice and consent of the Senate,

under the provisions of this section as it read prior to January 1, 1977, shall expire on that date.

(c) The board shall select a vice chairman from among its members. Six members of the board shall constitute a quorum.

(d) When the Board of Corrections is hearing charges against any member, the individual concerned shall not sit as a member of the board for the period of hearing of charges and the determination of recommendations to the Governor.

(e) If any appointed member is not in attendance for three consecutive meetings the board shall recommend to the Governor that the member be removed and the Governor shall make a new appointment, with the advice and consent of the Senate, for the remainder of the term.

SEC. 2. Section 6025.1 of the Penal Code is amended to read:

6025.1. Members of the board shall receive no compensation, but shall be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties. For purposes of compensation, attendance at meetings of the board shall be deemed performance by a member of the duties of his state or local governmental employment.

SEC. 2.5. Section 6025.2 of the Penal Code is repealed.

SEC. 3. Section 6027 of the Penal Code is amended to read:

6027. It shall be the duty of the Board of Corrections to make a study of the entire subject of crime, with particular reference to conditions in the State of California, including causes of crime, possible methods of prevention of crime, methods of detection of crime and apprehension of criminals, methods of prosecution of persons accused of crime, and the entire subject of penology, including standards and training for correctional personnel, and to report its findings, its conclusions and recommendations to the Governor and the Legislature at such times as they may require.

SEC. 4. Section 6031.2 of the Penal Code is amended to read:

6031.2. The Board of Corrections shall file with the Legislature by March 31, 1974, and on March 31, in each even-numbered year thereafter, reports of the inspection of those local detention facilities that have not complied with the minimum standards established pursuant to Section 6030. The reports shall specify those areas in which the facility has failed to comply and the estimated cost to the facility necessary to accomplish compliance with the minimum standards.

The reports shall also include an evaluation of standards required of and training provided for correctional personnel. The reports shall specify those areas in which standards and training are, in the board's estimation, inadequate.

SEC. 5. Section 6031.5 is added to the Penal Code, to read:

6031.5. For the purposes of this chapter, the term "correctional personnel" means: (1) any person described by subdivision (a) or (b) of Section 830.5; or (2) any class of persons who perform supervision, custody, care or treatment functions and are employed

by the Department of Corrections, the Department of the Youth Authority, any correctional or detention facility, probation department, community-based correctional program, or other state or local public facility or program responsible for the custody, supervision, treatment, or rehabilitation of persons accused of or adjudged responsible for criminal or delinquent conduct.

CHAPTER 1238

An act to amend Sections 12400, 14150, and 14150.5 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 12400 of the Welfare and Institutions Code is amended to read:

12400. (a) For the 1974–75 fiscal year, the county share toward the cost of state supplementary aid provided under this chapter shall be the amount specified for the particular county in the following table:

Alameda	$7,025,338
Alpine	4,947
Amador	38,704
Butte	670,251
Calaveras	77,181
Colusa	49,813
Contra Costa	3,476,380
Del Norte	114,534
El Dorado	250,723
Fresno	2,904,906
Glenn	68,691
Humboldt	720,054
Imperial	470,331
Inyo	72,676
Kern	2,185,196
Kings	388,717
Lake	200,967
Lassen	74,308
Los Angeles	46,323,058
Madera	461,328
Marin	579,850
Mariposa	29,298
Mendocino	353,434
Merced	707,640

Modoc	43,587
Mono	12,975
Monterey	923,764
Napa	415,106
Nevada	179,187
Orange	3,060,075
Placer	367,389
Plumas	73,565
Riverside	2,669,507
Sacramento	4,872,097
San Benito	73,296
San Bernardino	3,090,547
San Diego	5,367,654
San Francisco	9,468,300
San Joaquin	2,617,685
San Luis Obispo	539,061
San Mateo	2,258,583
Santa Barbara	1,077,275
Santa Clara	4,656,892
Santa Cruz	755,346
Shasta	588,992
Sierra	9,556
Siskiyou	180,859
Solano	691,459
Sonoma	1,118,960
Stanislaus	1,523,171
Sutter	213,560
Tehama	179,320
Trinity	36,021
Tulare	1,606,935
Tuolumne	113,202
Ventura	1,188,797
Yolo	462,791
Yuba	316,161
	$118,000,000

For the fiscal year 1973–74, each county's share shall be 45 percent of the amount specified in the above table for the particular county. Beginning with the fiscal year 1975–76, the amount payable by each county in each subsequent year shall be determined by multiplying the 1974–75 base-year amount by the ratio of the county's modified assessed value in the subsequent year to the county's modified assessed value in the base year.

(b) The term "modified assessed value" means the total of (1) 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 (2) the product of the sum of (i) the taxable assessed value of county-assessed

property, (ii) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (iii) the sum of assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the average of the factor certified for the current year under Section 17261 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years. The assessed valuation equivalents of Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the county's secured tax rate for the prior year.

For purposes of this subdivision commencing with the 1976–77 fiscal year, the term "taxable" assessed value of county-assessed property shall not include any assessed valuation upon which tax receipts are allocated to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code.

The State Controller shall determine the amount payable by each particular county in subsequent fiscal years under this section.

(c) The counties' share toward the cost of care and administration provided under this chapter shall be paid to the state monthly.

SEC. 2. Section 14150 of the Welfare and Institutions Code is amended to read:

14150. (a) For the 1971–72 fiscal year, the county share toward the cost of care and administration provided under this chapter shall be the amount specified for the particular county in the following table:

Alameda	$11,832,000
Alpine	5,000
Amador	156,000
Butte	952,000
Calaveras	215,000
Colusa	142,000
Contra Costa	6,018,000
Del Norte	123,000
El Dorado	359,000
Fresno	6,873,000
Glenn	187,000
Humboldt	1,200,000
Imperial	430,000
Inyo	241,000
Kern	5,233,000
Kings	740,000
Lake	132,000
Lassen	124,000
Los Angeles	99,975,000
Madera	661,000

Marin	1,120,000
Mariposa	33,000
Mendocino	550,000
Merced	1,545,000
Modoc	120,000
Mono	31,000
Monterey	2,595,000
Napa	550,000
Nevada	425,000
Orange	10,395,000
Placer	913,000
Plumas	220,000
Riverside	5,160,000
Sacramento	8,627,000
San Benito	181,000
San Bernardino	6,462,000
San Diego	8,050,000
San Francisco	15,268,000
San Joaquin	7,390,000
San Luis Obispo	1,443,000
San Mateo	5,600,000
Santa Barbara	2,470,000
Santa Clara	9,400,000
Santa Cruz	1,335,000
Shasta	660,000
Sierra	13,000
Siskiyou	390,000
Solano	796,000
Sonoma	2,250,000
Stanislaus	2,630,000
Sutter	770,000
Tehama	290,000
Trinity	107,000
Tulare	2,845,000
Tuolumne	284,000
Ventura	2,776,000
Yolo	1,050,000
Yuba	750,000

The amount payable by each county in each subsequent year beginning with the 1972–73 fiscal year shall be determined by multiplying the base-year amount by the ratio of the county's modified assessed value in the subsequent year to the county's modified assessed value in the base 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 sum of (1) the taxable assessed value of county-assessed property, (2) the exempt

assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (3) the sum of the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the average of the factor certified for the current year under Section 17261 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years. The assessed valuation equivalents of Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the county's secured tax rate for the prior year.

For purposes of this subdivision commencing with the 1976–77 fiscal year, the term "taxable" assessed value of county-assessed property shall not include any assessed valuation upon which tax receipts are allocated to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code.

The State Controller shall determine the amount payable by each particular county in subsequent fiscal years under this section.

(b) As used in this section, the terms "eligible" and "eligibles" mean all persons who are public assistance recipients, and all persons eligible under Sections 14005.2, 14005.3, 14005.4, and 14005.6, and all persons eligible under Section 14005.7 who are certified for Medi-Cal coverage by the department.

(c) The counties' share toward the cost of care and administration provided under this chapter shall be paid to the state monthly.

(d) Notwithstanding the provisions of Sections 5707, 5709.5, 5710, and 5714 of the Welfare and Institutions Code, payment for the costs of health care services provided under Part 2, Division 5, of the Welfare and Institutions Code, the Short-Doyle Act, shall be made in accordance with the provisions of this section.

(e) Notwithstanding the provisions of Section 7511 of the Welfare and Institutions Code, payment for the share of costs of health care services provided under Chapter 4, Division 7, of the Welfare and Institutions Code, shall be made in accordance with the provisions of this section.

SEC. 3. 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 sum of (1) the taxable assessed value of county-assessed property, (2) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (3) the sum of the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the average of the factor certified for the current year under Section 17261 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years. The assessed valuation equivalents of Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the county's secured tax rate for the prior year.

For purposes of this subdivision commencing with the 1976–77 fiscal year, the term "taxable" assessed value of county-assessed property shall not include any assessed valuation upon which tax receipts are allocated to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code.

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.

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 there are savings as well as costs in this act that, in the aggregate, do not result in significant cost changes.

CHAPTER 1239

An act to add Section 1752.15 to the Welfare and Institutions Code, relating to juvenile detention, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 1752.15 is added to the Welfare and Institutions Code, to read:

1752.15. The director may enter into contracts, with the approval of the Director of Finance, with any county of this state upon request of the board of supervisors thereof, wherein the Department of the Youth Authority agrees to furnish temporary emergency detention facilities and necessary services incident thereto, for persons under

the age of 18 years who are in the custody of the county probation officer pursuant to provisions of Chapter 2 (commencing with Section 500) of Part 1 of Division 2. Facilities of the department may be used only on a temporary basis when existing county juvenile facilities are rendered unsafe or inadequate because of a natural or manmade disaster. They may not be used for the detention of a person who is alleged to be or has been adjudged to be a person described by Section 600 or Section 601.

Whenever any person is detained in a California Youth Authority facility located in a county other than the county which has contracted for services pursuant to this section, the county shall provide for adequate consultation between the minor and his attorney; and, if the minor's parent or guardian lacks adequate private means of transportation, and if the minor has been detained in the facility for more than 10 days, the county shall make reasonable efforts to provide for visitation between the minor and his parents or guardian.

The county shall reimburse the state for the cost of such services, such cost to be determined by the director. The department shall present to the county, not more than once a month, a claim for the amount due the state under this section which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

SEC. 2. Former Section 1752.15 of the Welfare and Institutions Code, as amended by Chapter 28 of the Statutes of 1975, became inoperative on January 1, 1976, and is substantially similar to Section 1752.15 of the Welfare and Institutions Code proposed by Section 1 of this act.

SEC. 3. No appropriation is made by Sections 1 and 2 of 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. 4. The sum of three hundred thirty thousand dollars ($330,000) is hereby appropriated from the General Fund to the Department of the Youth Authority for the 1976–77 fiscal year for contracting with the Sugar Ray Youth Foundation for juvenile delinquency prevention services and programs. The appropriation made by this section is in lieu of the appropriation made by Item 312.5 of the Budget Act of 1976 and the appropriation made by Item 312.5 of the Budget Act of 1976 shall not be available for expenditure.

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 to provide the necessary authority for counties to continue to provide juvenile detention facilities and services on a

temporary basis by contract for department facilities it is necessary that this act take effect immediately.

CHAPTER 1240

An act to add Section 489 to the Insurance Code, relating to automobile insurance premium rates.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 489 is added to the Insurance Code, to read:

489. (a) Upon issuance of a policy of insurance described in Section 660, the insurer or its agent shall deliver to the named insured a notice explaining the manner in which the insurer's rating plan provides for an increase in the premium based upon accidents or convictions within the meaning of Sections 13103 and 13105 of the Vehicle Code.

Every insurer or its agent, not less than 20 days prior to renewal of a policy covered by this section, shall inform the named insured of the named insured's right to be informed, upon request, of any increase in the premium, in whole or in part, charged the named insured by virtue of the involvement in any accident, or conviction within the meaning of Section 13103 and 13105 of the Vehicle Code, by the insured or any operator of the motor vehicle.

(b) Every insurer shall, after March 1, 1977, as part of the first offer required by Section 663, deliver to everyone who was a named insured under a policy of insurance described in Section 660 on March 1, 1977, a notice explaining the manner in which the insurer's rating plan provides for an increase in the premium, based upon accidents or convictions within the meaning of Sections 13103 and 13105 of the Vehicle Code. The provisions of this subdivision shall expire on March 1, 1978.

CHAPTER 1241

An act to add Section 987.02 to the Military and Veterans Code, relating to veterans.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 987.02 is added to the Military and Veterans Code, to read:

987.02. (a) Upon the dissolution of marriage or legal separation of a veteran contract purchaser and the veteran's spouse, the department shall recognize the nonveteran former spouse as the sole purchaser provided the veteran's entire beneficial interest is transferred to the spouse and provided there are dependent children occupying the property and the spouse agrees to: (1) actually reside in the home; (2) continue to make the payments in the same amount required by the purchase contract.

(b) Should the veteran retain entire beneficial interest in the property after dissolution or legal separation, the veteran may continue as purchaser provided either the veteran or the former spouse continues to occupy the property.

CHAPTER 1242

An act to amend Section 4323.5 of, and to repeal Section 4323 of, the Business and Professions Code, relating to prophylactics.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 4323 of the Business and Professions Code is repealed.

SEC. 2. Section 4323.5 of the Business and Professions Code is amended to read:

4323.5. (a) It is unlawful to sell or otherwise dispose of any prophylactic unless such prophylactic has been hermetically sealed in a manner approved by the board, and unless each prophylactic or package of prophylactic so sold or otherwise disposed of bears or has attached to it a clear readable noncoded date of manufacture, and unless the prophylactic or package is accompanied by instructions for use, and by information relative to the nature, prevention, control, and cure of venereal disease.

(b) Any mechanical device or vending machine which contains prophylactics and is accessible to the public shall bear identification, visible to the public, showing the name, address, and license number of the owner or the person who supplies the prophylactics contained therein.

(c) A mechanical device or vending machine used to sell or otherwise dispose of any prophylactic may be placed or located only in a restroom open to the public.

(d) Failure to comply with any provision of this section shall subject the mechanical device or vending device and the prophylactics contained therein to seizure by the board and shall be

grounds for the suspension or revocation of any license issued to the owner of such mechanical device or vending device.

CHAPTER 1243

An act to amend Section 8899.2 of the Government Code, and to amend Sections 672, 674, 676, 2630, 2701, 2702, and 2707 of the Public Resources Code, relating to earthquake and other geologic hazards.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 8899.2 of the Government Code is amended to read:

8899.2. The Building Safety Board established in Section 15021 of the Health and Safety Code shall report annually to the Seismic Safety Commission.

SEC. 2. Section 672 of the Public Resources Code is amended to read:

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 seismological and geological information pertaining to earthquake and other geological hazards. General policies for the division shall be determined by the board.

SEC. 3. Section 674 of the Public Resources Code is amended to read:

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 seismological and geological aspects of earthquakes and other geological hazards.

SEC. 4. Section 676 of the Public Resources Code is amended to read:

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 the seismological and geological aspects of earthquakes and other geological hazards.

SEC. 5. Section 2630 of the Public Resources Code is amended to read:

2630. In carrying out the provisions of this chapter, the State Geologist and the board shall be advised by the Seismic Safety Commission.

SEC. 6. Section 2701 of the Public Resources Code is amended to read:

2701. The division shall organize and monitor the program with the advice of the Seismic Safety Commission.

SEC. 7. Section 2702 of the Public Resources Code is amended to read:

2702. The division shall purchase, install, and maintain instruments in representative structures and geologic environments throughout the state, and shall process the data obtained from such instruments resulting from periodic earthquakes, as deemed necessary and desirable by the Seismic Safety Commission.

SEC. 8. Section 2707 of the Public Resources Code is amended to read:

2707. The division, upon advice of the Seismic Safety Commission, whenever it determines that an adequate instrumentation program has been achieved, may reduce the fee levied against building permits as provided in Section 2705 to a level sufficient to maintain the program established pursuant to this chapter.

CHAPTER 1244

An act to amend Section 30792.2 of the Streets and Highways Code, relating to the Dumbarton Bridge, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. 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.

The department having completed its studies for the new Dumbarton Bridge in consultation with the public agencies in whose territory the approaches thereto are located, and the department having completed the environmental impact report on the project, the Legislature finds and declares that the requirements imposed by Chapter 492 of the Statutes of 1972 have been met. The Legislature further declares that the department is authorized to proceed immediately with the construction of the new Dumbarton Bridge and approaches without obtaining further approvals, provided, that the westerly approaches shall include a west approach, a University Avenue connection to the west approach, a Marsh Road connection to the west approach, and a Willow Road connection to the west approach, all located as follows:

The west approach shall commence at the west end of the new bridge and extend along the present westerly Willow Road approach approximately 9,000 feet to a point 450 feet east of the Southern Pacific railroad tracks.

The Willow Road connection to the west approach shall connect to the west approach at its west end and extend along present Willow Road to its intersection with Route 101, a distance of approximately 4,900 feet.

The University Avenue connection to the west approach shall connect to the west approach commencing at a point approximately 6,000 feet west of the west abutment of the existing bridge where it intersects the west approach and extend in a southerly direction to connect with existing University Avenue at Purdue Avenue and along existing University Avenue to Notre Dame Avenue, a distance of approximately 4,000 feet.

The Marsh Road connection to the west approach shall connect with the west approach at a point approximately 450 feet east of the Southern Pacific railroad tracks and extend westerly along a 100-foot wide right-of-way, formerly subject to an easement held by the San Francisco Water Department, to the Marsh Road and Route 101 interchange, a distance of approximately 9,500 feet.

Nothing herein shall be construed to prevent the department from changing the location of any approach or approach connection or from adding any additional approach or approach connection if such change or addition is consented to by the local agencies through which it passes and by the San Francisco Bay Conservation and Development Commission.

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 California Toll Bridge Authority is ready to issue revenue bonds to finance construction of the new Dumbarton Bridge. In order that the appropriate language be included in the offer it is

necessary for this act to take effect immediately.

CHAPTER 1245

An act to amend Section 58889 of, to add Section 58889.5 to, and to add and repeal Sections 58604.5 and 58889.3 of, the Food and Agricultural Code, relating to marketing orders, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 58604.5 is added to the Food and Agricultural Code, to read:

58604.5. "Advertising and sales promotion" also means, in addition to its ordinary accepted meaning, activities for the modification or removal of trade barriers that restrict the free flow of a commodity to market, including negotiation with federal and foreign governments, and the allowance of reimbursement payments to offset commodity transportation costs to foreign markets.

This section shall remain in effect only until May 31, 1978, and shall have no force or effect on or after such date, unless a later enacted statute, which is chaptered before May 31, 1978, deletes or extends such date.

SEC. 2. Section 58889 of the Food and Agricultural Code is amended to read:

58889. (a) A marketing order may contain provisions for the establishment of plans for advertising and sales promotion to maintain present markets or to create new or larger markets for any commodity which is grown in this state, or for the prevention, modification, or removal of trade barriers which obstruct the free flow of any commodity to market. The director may prepare, issue, administer, and enforce plans for promoting the sale of any commodity.

(b) Any such plan shall be directed toward increasing the sale of the commodity without reference to any private brand or trade name which is used by any handler with respect to the commodity regulated by the marketing order, except the use of wine if other than private brands or private trade names are unavailable.

(c) No advertising or sales promotion program shall be issued by the director which makes use of false or unwarranted claims in behalf of any such product, or disparages the quality, value, sale, or use of any other commodity.

SEC. 3. Section 58889.3 is added to the Food and Agricultural Code, to read:

58889.3. Notwithstanding subdivision (b) of Section 58889, effective immediately, a marketing order may contain provisions for the establishment of plans for advertising and sales promotion, including any private brand or trade name, to maintain present international foreign markets or to create new or larger international foreign markets for any commodity which is grown in this state, provided that effective January 1, 1978, such advertising and sales promotion plans require that each individual commodity package label indicate the commodity is of California origin in English or other appropriate language.

This section shall remain in effect only until January 1, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1979, deletes or extends such date.

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

To facilitate the opening of new markets for, and the extension of present markets for, California commodities at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 1246

An act to amend Sections 66740 and 66745 of, and to add Sections 66786 and 66786.5 to, the Government Code, relating to synthetic fuels, and making an appropriation therefor.

[Approved by Governor September 22, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 66740 of the Government Code is amended to read:

66740. There is in the Resources Agency the State Solid Waste Management Board.

The board shall consist of the following members:

(a) One member appointed by the Governor who is at the time of his appointment a city councilman from a city having a population of more than 250,000 persons as determined by the 1970 federal census.

(b) One member appointed by the Governor who is at the time of his appointment a county supervisor from a county having a population of more than 500,000 persons as determined by the 1970 federal census.

(c) Three representatives of the public appointed by the Governor.

(d) One representative of the public appointed by the Speaker of

the Assembly, who shall have specialized education and experience in natural resources conservation and resources recovery.

(e) One representative of the public appointed by the Senate Committee on Rules, who shall be a registered civil engineer under the laws of this state and have specialized education and experience in natural resources conservation and resources recovery.

(f) One member appointed by the Governor from the private sector of the solid waste management industry from southern California.

(g) One member appointed by the Governor from the private sector of the solid waste management industry from northern California.

(h) The State Director of Health or his deputy who shall be a nonvoting ex officio member.

(i) The State Director of Agriculture or his deputy who shall be a nonvoting ex officio member.

(j) The Chief of the Division of Mines and Geology of the Department of Conservation or his deputy who shall be a nonvoting ex officio member.

The Governor shall appoint, subject to the advice and consent of a majority of the Members of the Senate, one of the members of the board as chairman. The chairman shall serve full time and shall receive an annual salary as prescribed by Section 11552.

SEC. 2. Section 66745 of the Government Code is amended to read:

66745. Each member of the board shall receive the necessary traveling and other expenses incurred by him in the performance of his official duties out of appropriations made for the support of the board. In addition, each voting member, except the chairman and state officials serving ex officio, shall receive one hundred dollars ($100) for each day attending meetings of the board. When necessary the members of the board may travel within or without the state.

SEC. 3. Section 66786 is added to the Government Code, to read:

66786. The Legislature finds and declares that effective solid waste management can aid in the development of alternative sources of energy through the conversion of solid waste material into energy, synthetic fuels, and recovery of materials. It is the policy of the state and the intent of the Legislature that a well-coordinated governmental effort be directed toward achieving an efficient process for the conversion of solid wastes into energy, synthetic fuels, and reusable materials. Such policy is specifically designed to encourage the dual objectives of materials recovery and the development of supplemental energy resources. Not later than July 1, 1977, and after consultation with interested cities and counties, the State Energy Resources Conservation and Development Commission, the State Air Resources Board, and the State Water Resources Control Board, the board shall select one or more sites that are suitable for the establishment of facilities for the conversion of

solid waste into energy, synthetic fuels, or for the recovery of materials. This selection shall be predicated upon information that shows the feasibility of the particular process based upon availability of markets, project economics, impact of any such facility on local employment, local needs for new energy sources, conformance with local land use planning, and a guaranteed volume of waste or feedstock.

The State Energy Resources Conservation and Development Commission and the California Pollution Control Financing Authority shall assist the board in identifying appropriate sources of funding and developing a plan for financing the facilities. The board shall submit the plan and its recommendations to the Legislature not later than December 31, 1977.

The board shall consult with the State Air Resources Board, State Water Resources Control Board, and State Energy Resources Conservation and Development Commission, and shall cause specifications for the construction and operation of the solid waste conversion facilities to be prepared. The board may call upon any other commission, board, department, or agency of the state or upon any agency of local government for assistance in selection of the site or sites, preparation of plans, and development of specifications.

The board shall enter into one or more agreements to facilitate the construction and operation of any solid waste recovery and conversion facilities with selected cities, counties, private entities, or with any other agencies having jurisdiction over the site or sites selected for such facilities. However, the board shall not enter into any agreement for the construction or operation of any facility the financing of which requires further action of the Legislature until the Legislature has so acted.

Any such agreements shall provide that the construction and operation of any such facilities shall be done in accordance with the specifications of the board, and that the facilities shall be operational within a period of time determined by the board, but in no event later than January 1, 1981.

SEC. 4. Section 66786.5 is added to the Government Code, to read:

66786.5. The Legislature of the State of California hereby finds and declares that there exists a significant air pollution problem associated with the current practice of the burning of agricultural wastes as a means of disposal. The conversion of agricultural waste to a synthetic fuel might serve to mitigate the air pollution problem and the solid waste disposal problems as well as provide an additional source of energy.

This section shall serve as an expression of the intent of the State of California to actively explore and develop the alternative of conversion of agricultural wastes to synthetic fuels rather than the current practice of burning.

After consultation with the State Energy Resources Conservation and Development Commission and the State Air Resources Board,

the board shall determine the economic feasibility of developing a research and demonstration project which would further the development of the concept of conversion of agricultural wastes to synthetic fuel. As a part of this feasibility analysis, the board shall:

(a) Determine whether an adequate volume of wastes would be available to serve such a project.

(b) Complete an analysis of the cost of transporting the agricultural wastes from the fields to the conversion unit.

(c) Determine whether a mobile or stationary system should be developed and demonstrated.

(d) Develop a test program that will result in the construction and demonstration of such a system.

(e) Determine the availability of matching federal funds.

Upon a finding by the board that such a demonstration is an economically feasible solution to problems caused by the burning of agricultural wastes, with the assistance and cooperation of the State Energy Resources Conservation and Development Commission and the State Air Resources Board, the board shall undertake the construction and field demonstration of a system for the conversion of agricultural wastes to synthetic fuel. Such field demonstration shall be completed by July 1, 1979. The demonstration program shall study the various parameters of system performance regarding air pollution emissions, other environmental impacts, the utility of the system on various types of agricultural wastes, the evaluation of the reliability of the process, and an overall economic analysis.

As a result of this demonstration project, the board shall provide for public consumption, documentation regarding the evaluation of the system. Assuming the demonstration is a successful one, the documentation shall be in a form that would encourage commercial development of conversion of agricultural wastes to synthetic fuel.

SEC. 5. Notwithstanding any other provision of law, the sum of two hundred fifty thousand dollars ($250,000) of the appropriation made for support of the State Solid Waste Management Board by Section 10.6 of the Budget Act of 1976 (Chapter 320 of the Statutes of 1976) is hereby reappropriated to the State Solid Waste Management Board for expenditure during the 1976–77 and 1977–78 fiscal years for use by the board for the research and demonstration project for conversion of agricultural wastes to synthetic fuel utilizing a mobile converter in accordance with Section 66786.5 of the Government Code. Such sum may be used by the board for any useful purpose of such research and demonstration project utilizing a mobile converter, including, but not limited to, obtaining matching funds for federal or other public or private funds or grants for such research and demonstration project.

SEC. 6. The State Energy Resources Conservation and Development Commission shall consider in its research and development budget funding request for the 1977–78 fiscal year such amounts, not to exceed two hundred fifty thousand dollars ($250,000) and as identified in the feasibility study, to carry out such

4 1395 29 1 385 238

demonstration project.

SEC. 7. The Legislature finds and declares that the deletion of the requirement that the representative of the public appointed by the Speaker of the Assembly to the State Solid Waste Management Board be a registered civil engineer is necessary to effect the intent of the Nejedly-Z'berg-Dills Solid Waste Management and Resource Recovery Act of 1972 as adopted by the Legislature.

CHAPTER 1247

An act to add Sections 16721 and 16721.5 to the Business and Professions Code, relating to discriminatory trusts and restraints of trade.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 16721 is added to the Business and Professions Code, to read:

16721. Recognizing that the California Constitution prohibits a person from being disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed, color, or national or ethnic origin, and guarantees the free exercise and enjoyment of religion without discrimination or preference; and recognizing that these and other basic, fundamental constitutional principles are directly affected and denigrated by certain on-going practices in the business and commercial world, it is necessary that provisions protecting and enhancing a person's right to enter or pursue business and to freely exercise and enjoy religion, consistent with law, be established.

(a) No person within the jurisdiction of this state shall be excluded from a business transaction on the basis of a policy expressed in any document or writing and imposed by a third party where such policy requires discrimination against that person on the basis of the person's sex, race, color, religion, ancestry or national origin or on the basis that the person conducts or has conducted business in a particular location.

(b) No person within the jurisdiction of this state shall require another person to be excluded, or be required to exclude another person, from a business transaction on the basis of a policy expressed in any document or writing which requires discrimination against such other person on the basis of that person's sex, race, color, religion, ancestry or national origin or on the basis that the person conducts or has conducted business in a particular location.

(c) Any violation of any provision of this section is a conspiracy against trade.

(d) Nothing in this section shall be construed to prohibit any person, on this basis of his or her individual ideology or preferences, from doing business or refusing to do business with any other person consistent with law.

SEC. 2. Section 16721.5 is added to the Business and Professions Code, to read:

16721.5. It is an unlawful trust and an unlawful restraint of trade for any person to do the following:

(a) Grant or accept any letter of credit, or other document which evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provision which requires any person to discriminate against or to certify that he, she, or it has not dealt with any other person on the basis of sex, race, color, religion, ancestry, or national origin, or on the basis of a person's lawful business associations.

(b) To refuse to grant or accept any letter of credit, or other document which evidences the transfer of funds or credit, or to refuse to enter into any contract for the exchange of goods or services, on the ground that it does not contain such a discriminatory provision or certification.

The provisions of this section shall not apply to any letter of credit, contract, or other document which contains any provision pertaining to a labor dispute or an unfair labor practice if the other provisions of such letter of credit, contract, or other document do not otherwise violate the provisions of this section.

For the purposes of this section, the prohibition against discrimination on the basis of a person's business associations shall be deemed not to include the requiring of association with particular employment or a particular group as a prerequisite to obtaining group rates or discounts on insurance, recreational activities, or other similar benefits.

For purposes of this section, "person" shall include, but not be limited to, individuals, firms, partnerships, associations, corporations, and governmental agencies.

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 which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1248

An act to amend Section 16053.1 of, and to add Article 2 (commencing with Section 15051) to Chapter 1 of Division 11 of, the Education Code, relating to school sites.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. The Legislature finds that the availability of park and open-space land is diminishing while the need and price of land suitable for park and open-space land is increasing. The Legislature further finds that school districts often own parcels of land which are no longer needed by the district solely for educational purposes and which would be ideal for park or open-space land purposes or for partial use for such purposes. Often, such surplus land would have been developed by the district for school recreational and athletic purposes if the district had sufficient available funds for such purposes.

It is, therefore, the intent of the Legislature to permit the governing board of any school district to sell surplus school property to any park district, city, or county for less than fair market value for use or partial use as park or recreational purposes or open-space purposes if the school district receives what it considers to be valuable consideration in return, such as the retaining of a future interest in the property or the partial use of the property for school recreational or athletic purposes. Such a sale for less than fair market value shall not be considered to be a violation of Section 6 of Article XVI of the California Constitution.

SEC. 2. Article 2 (commencing with Section 15051) is added to Chapter 1 of Division 11 of the Education Code, to read:

Article 2. Disposal of Sites

15051. Notwithstanding the provisions of Article 2 (commencing with Section 16051) of Chapter 2 of Division 12 and in addition to the requirements placed upon school districts pursuant to Section 54222 of the Government Code, the governing board of any school district may sell, for less than fair market value, any school site that is deemed to be surplus property of the district, to any park district, city, or county in which the school district is wholly or partially situated for use or partial use as park or recreational purposes or open-space purposes if the governing board adopts a resolution specifying that it will sell or transfer such property for less than fair market value to such an entity for such a purpose. The offer to sell shall be made in writing, but the terms by which the property may be sold or transferred need not be specifically provided.

01530 291455 252

15053. The sale or transfer may be made for cash and other valuable consideration, or for other valuable consideration, as deemed appropriate by the governing board of the school district. The sale or transfer may be made without first taking a vote of the electors of the district.

15054. A school district's offer to sell or transfer the land shall be made to all park districts, cities, and counties in which the school district is wholly or partially situated pursuant to this article and shall remain open for not less than 60 days. The sale or transfer shall be made to whichever public entity first accepts the offer, or whichever public entity can negotiate satisfactorily for the purchase or transfer of such surplus land.

SEC. 3. Section 16053.1 of the Education Code is amended to read:

16053.1. Except as provided for in Article 2 (commencing with Section 15051) of Chapter 1 of Division 11, the sale or lease with an option to purchase of real property by a school district shall be in accordance with the following priorities and procedures:

(a) First, the property shall be offered for park or recreational purposes pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, in any instance in which such article is applicable.

(b) Second, the property shall be offered for sale or lease with an option to purchase, at fair market value;

(1) In writing, to the state, the Regents of the University of California, the Trustees of the California State University and Colleges, the county and city in which the property is situated, and to any public housing authority in the county in which the property is situated; and

(2) By public notice to any public district, public authority, public agency, public corporation, or any other political subdivision in this state, to the federal government, and to nonprofit charitable corporations organized pursuant to Part 3 (commencing with Section 10200) of Division 2 of Title 1 of the Corporations Code. Public notice shall consist of at least publishing its intention to dispose of the real property in a newspaper of general circulation within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall specify that the property is being made available to all public districts, public authorities, public agencies, and other political subdivisions or public corporations in this state, and to other nonprofit charitable corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or more often, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The written notice required by paragraph (1) of this subdivision shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the school district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may, in its discretion, determine which of such offers to accept.

(c) Third, the property shall be made available in writing to the former owner, in accordance with Section 16058.3. This subdivision shall not be applicable to community college districts.

(d) Fourth, the property may be disposed of in any other manner authorized by law.

CHAPTER 1249

An act to amend Section 11002 of the Education Code, relating to kindergarten.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 11002 of the Education Code is amended to read:

11002. No pupil in a kindergarten shall be kept in school in any day more than four hours exclusive of recesses.

This section shall not apply to counties of the third class as determined pursuant to Section 28024 of the Government Code as it reads on January 1, 1977.

CHAPTER 1250

An act to amend Section 13166 of the Education Code, relating to teaching credentials.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 13166 of the Education Code is amended to read:

13166. The issuance of any teaching credential requires (1) the passing of a satisfactory examination on the provisions and principles

of the Constitution of the United States in a community college, college, or university of recognized merit or (2) the satisfactory completion of two semester units of work on the provisions and principles of the Constitution of the United States in any university or college from which undergraduate credits earned are accepted by the commission as meeting undergraduate credit requirements for credentials issued by the commission or in any publicly supported community college in the state. Public and private institutions in California may be authorized to attest to the individual's satisfaction of this requirement.

The requirements of this section do not apply to the designated subjects teaching credential authorizing part-time employment only.

CHAPTER 1251

An act to amend Sections 13116.1 and 13134 of the Education Code, relating to certificated personnel.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 13116.1 of the Education Code is amended to read:

13116.1. To assist in approving teacher education programs, the commission may appoint panels of educators, including public school classroom teachers, and lay persons to serve as members of visiting teams to institutions and school districts having such programs. The provisions of Sections 13108, 13109, and 13109.1 shall be applicable to such panels of educators.

SEC. 2. Section 13134 of the Education Code is amended to read:

13134. A teacher licensed pursuant to the provisions of this article may be assigned, with his or her consent, to teach any single subject class in which he or she has 18 semester hours of coursework or nine semester hours of upper division or graduate coursework or a multiple subject class if he or she holds at least 60 semester hours equally distributed among the four areas of a diversified major set forth in Section 13157.4. A three-semester-unit variance in any of the required four areas may be allowed. The governing board of the school district by resolution shall provide specific authorization for such assignment. The authorization of the governing board shall remain valid for one year and may be renewed annually.

CHAPTER 1252

An act to amend Section 25505.20 of the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 25505.20 of the Education Code is amended to read:

25505.20. For purposes of the nonresident tuition fee, a community college district shall disregard the time during which a student living in the district resided outside the state, if:

(1) The change of residence to a place outside the state was due to a job transfer and was made at the request of the employer of the student or the employer of the student's spouse or, in the case of a student who resided with, and was a dependent of, the student's parents, the change of residence was made at the request of an employer of either of the student's parents.

(2) Such absence from the state was for a period of not more than four years.

(3) At the time of application for admission to a college maintained by the district, the student would qualify as a resident if the period of the student's absence from the state was disregarded.

A nonresident tuition fee shall not be charged to a student who meets each of the conditions specified in subdivisions (1) to (3), inclusive.

SEC. 2. The amendments to Section 25505.20 of the Education Code made by Section 1 of this act shall apply retroactively as if such amendments had been in effect on and after January 1, 1976.

SEC. 3. The Board of Governors of the California Community Colleges shall adopt uniform procedures for the refund by community college districts of nonresident tuition fees which have been collected but which would not have been payable had this act been in effect on and after January 1, 1976.

SEC. 4. The sum of five thousand dollars ($5,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such districts for costs incurred by them pursuant to this act.

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

In order that the community college nonresident tuition fees which are eliminated by this act will not be unnecessarily collected

and later refunded, it is necessary that this act go into effect immediately.

CHAPTER 1253

An act to add Section 15955.5 to, and to repeal Sections 15955.5 and 15955.6 of, the Education Code, relating to data processing.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 15955.5 of the Education is repealed.

SEC. 2. Section 15955.5 is added to the Education Code, to read:

15955.5. The governing board of a school district or community college district may contract for electromechanical or electronic data-processing work.

SEC. 3. Section 15955.6 of the Education Code is repealed.

CHAPTER 1254

An act to add Sections 5605.15 and 5605.16 to the Education Code, relating to junior high schools, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 5605.15 is added to the Education Code, to read:

5605.15. (a) A high school district maintaining a junior high school program in which 7th and 8th grade pupils from all of the elementary school districts situated within the high school district attend the junior high school and in which the assessed valuation per pupil in one of the elementary districts is more than five times that of the average of the other elementary school districts, shall add an amount to the high school tax rate sufficient to provide the same amount of revenue as that provided by the sum of the tuition charges determined pursuant to Sections 5605 and 5605.1 from all elementary school districts situated within the high school district, and shall substitute this source of revenue for the tuition charges to the elementary school districts as specified in Section 5605.2.

(b) The fiscal year 1975–76 shall be the base year for the junior high school tuition for computational purposes.

(c) The county superintendent of schools shall compute the tuition charge for the 1975–76 fiscal year pursuant to Section 5605 which shall be the junior high school revenue limit for the high school district.

(d) For the 1976–77 fiscal year and fiscal years thereafter, the junior high school revenue limit shall be increased in an amount equal to the increase for the high school district's revenue limit per average daily attendance as computed pursuant to subdivision (f) and (g) of Section 20905 for the current year.

(e) The secured tax levy requirement shall be computed as follows:

(1) The amount computed under subdivision (d) shall be multiplied by the estimated average daily attendance for grades 7 and 8.

(2) The amount computed under paragraph (1) of this subdivision shall be reduced by the estimated state apportionment transferred pursuant to Section 17411.

(f) Whenever the computation required by this section results, because of estimating error, in a total income limit in an amount more or less than actual data would have produced, the revenue limit for the succeeding fiscal year shall be reduced a like amount if the total produced was more, and may be increased by such amount if the total produced was less.

(g) The provisions of this section shall be applicable only to high school districts with an average daily attendance of 2,000 or less, exclusive of average daily attendance of pupils in the 7th and 8th grades and shall be applicable only if a majority of the electors of such districts voting at an election approve of a proposition providing for the computations required by this section. The election shall be held as nearly as practicable according to the provisions of Section 20803.2.

SEC. 2. Section 5605.16 is added to the Education Code, to read:

5605.16. The revenue limit of any elementary school district situated within a high school district with an average daily attendance of 2,000 or less, exclusive of average daily attendance of pupils in the 7th and 8th grades, shall be increased or decreased by the amount necessary to provide the amount of money per average daily attendance in kindergarten through grade 6 as was available to the district prior to the establishment of a separate revenue limit for a junior high school as computed pursuant to Section 5605.15. Such rate shall be computed by the county superintendent of schools for the 1975–76 fiscal year and shall, for computational purposes, be the 1975–76 base revenue of the elementary school district.

For the 1976–77 fiscal year and fiscal years thereafter, the base revenue established pursuant to this section shall be adjusted annually pursuant to subdivisions (f) and (g) of Section 20905.

SEC. 3. The governing board of a high school district described in subdivision (a) of Section 5605.15 of the Education Code shall order and conduct an election upon the proposition of whether or not the computation required by Section 5605.15 shall be made

applicable in the district.

The election shall be held and conducted as nearly as practicable in accordance with the provisions of Section 20803.2 of the Education Code, except that the proposition shall be phrased in substantially the following terms: "Shall the maximum tax rate of the _____ High School District be increased by an amount sufficient to provide the same amount of revenue that the district derives from tuition charges paid by the elementary schools within it and shall the maximum tax rates of such elementary school districts be correspondingly reduced, in accordance with the provisions of Sections 5605.15 and 5605.16 of the Education Code?" Opposite such words, in separate lines, the words "Yes" and "No" shall be printed, with a voting square opposite each such word.

Such election shall be consolidated with the general election of 1976.

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 government entity which desired legislative authority to act to carry out the program specified in this act.

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

In order to permit the voters to make the determination authorized by this act in time to effect the revisions made by this act for the 1977–78 fiscal year, if approved by the voters, it is necessary that this act take effect immediately.

CHAPTER 1255

An act to amend Section 13135.1 of the Education Code, relating to teacher qualifications.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 13135.1 of the Education Code is amended to read:

13135.1. The commission shall issue, upon direct application by a qualified applicant, any credential specified in Section 13135 and such other specialists instruction credentials as the commission may establish, except that special education specialist credentials issued under the provisions of this section shall only be those which authorize teaching in programs for the learning handicapped or the

severely handicapped, as both are defined in Section 7027, to an applicant who possesses a valid regular California teaching credential and who is, in the judgment of the commission, qualified to receive the credential. The credential issued under the terms of this section shall be a "full," "clear," or "professional" credential. Determination of qualification shall be limited to either (a) or (a) and (b):

(a) Specialized training: Twenty-four semester units, or equivalent credit, of specialized training in the field for which the credential is to be issued shall be required. Such training may include training in a related field or fields. The commission shall establish guidelines to determine what constitutes qualifying training and what are related fields. Qualifications for specialist in special education credentials authorizing teaching in programs for learning handicapped or severely handicapped pupils, as both are defined in Section 7027, shall include, but need not be limited to, training in (1) learning disabilities, (2) perceptual-motor training, and (3) language development. Such training shall have commenced on or after the beginning of the school year 1964–65 and been completed on or before September 15, 1978, with respect to applicants for special education specialist credentials authorizing programs for the learning handicapped or the severely handicapped, as both are defined in Section 7027, and on or before September 15, 1977, for all other applicants authorized herein, and shall have been undertaken in a California institution accredited by the State Board of Education, or approved by the commission. If the applicant received training, within the same time limits, in an out-of-state institution, credit for such training shall apply only if, at the time the training was taken, the institution was accredited by the appropriate regional accrediting body and accredited or approved by the certification agency of the state in which the institution is located. The commission shall allow up to six semester units credit for experience, pursuant to subdivision (b), in lieu of coursework.

(b) Experience in actual practice of the specialization in the public schools or in a private school or institution of equivalent status. Such experience shall have commenced on or after September 1, 1970. Such experience need not have been full time in the specialization, but shall, demonstrate the applicant's ability to function in the specialization, as shown by continued employment in such schools in a position or in positions which utilize the skills of the credential field or related fields.

(c) Application for credentials pursuant to this section shall be made by September 15, 1978, by applicants for special education specialist credentials authorizing programs for the learning handicapped or the severely handicapped, as both are defined in Section 7027, and by September 15, 1977, for all other applicants authorized herein.

CHAPTER 1256

An act relating to the disposal of real property by the Director of General Services, and to amend Sections 1 and 4 of, and repeal Sections 5 and 6 of, Chapter 23 of the Statutes of 1976, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 1 of Chapter 23 of the Statutes of 1976 is amended to read:

Section 1. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell all or any part of the following real property, and any water company stock held in connection therewith, 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:

Approximately 428.23 acres located in the Las Posas Valley of Ventura County between the county roads Berylwood, Price, and Aggen.

SEC. 1.5. Section 4 of Chapter 23 of the Statutes of 1976 is amended to read:

SEC. 4. As to any property conveyed pursuant to this act, the Director of General Services shall reserve to the state all mineral deposits, as defined by Section 6407 of the Public Resources Code.

SEC. 2. Section 5 of Chapter 23 of the Statutes of 1976 is repealed.

SEC. 3. Section 6 of Chapter 23 of the Statutes of 1976 is repealed.

SEC. 4. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell, lease, or option to purchase, the following real property, and any water company stock held in connection therewith, upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state:

Parcel 1. Approximately 274 acres acquired from private parties and located at the westernly boundaries of Redwood City in the County of San Mateo.

Parcel 2. Approximately 203 acres acquired from the County and City of San Francisco and located south of Edgewood County Road and east of State Freeway 280 in San Mateo County.

SEC. 5. Any moneys received from the sale or lease of real property pursuant to this act shall be paid into the Capital Outlay Fund for Public Higher Education for capital outlay by the Trustees of the California State University and Colleges, except that any costs or expenses incurred in the sale of real property pursuant to this act may be reimbursed from the proceeds of the sale.

SEC. 6. Any lease or purchase option consummated prior to

March 31, 1977, shall remain in effect for the term of such agreement; however, no such agreement shall extend beyond January 1, 1982.

SEC. 7. In the event that a purchase option is entered into and the option is not exercised during the term of such option, the Director of General Services shall, with respect to parcel 1 of Section 4, for a one-year period, negotiate to sell such parcel to local public entities with the objective that the parcel be utilized for recreational purposes or remain undeveloped open space. Upon termination of that one-year negotiation period, the director may, subject to the conditions contained in Section 4 of this act, sell the property comprising such parcel.

SEC. 8. In the event the Director of General Services does not enter into an agreement to sell, lease, or option to purchase these parcels with the United States government prior to March 31, 1977, the director shall, with respect to parcel 1 of Section 4, negotiate for a one-year period to sell such parcel to local public entities with the objective that the parcel be utilized for recreational purposes or remain undeveloped open space. Upon the termination of that one-year negotiation period, the director may, subject to the conditions contained in Section 4 of this act, sell the property comprising parcel 1.

SEC. 8.5. As to any property sold, leased, or to which a purchase option is entered into pursuant to this act, the Director of General Services shall reserve to the state all mineral deposits, as defined by Section 6407 of the Public Resources Code.

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

In order to consummate a sale, lease, or option to purchase with the United States government which intends to establish a solar energy research project on the property which is the subject of this act, it is necessary that the provisions of this act go into effect immediately.

SEC. 10. The provisions of this act shall have no force or effect on or after March 31, 1977, with respect to parcel 2 of Section 4, unless a later enacted statute, which is chaptered before March 31, 1977, deletes or extends such date.

CHAPTER 1257

An act to amend Sections 5201, 13656, and 13656.2 of, and to add Section 13656.4 to, the Education Code, relating to school holidays.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 27, 1976.]

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

SECTION 1. Section 5201 of the Education Code is amended to read:

5201. Except as otherwise provided the public schools shall continue in session or close on specified holidays as follows:

(a) The public schools shall close on January 1st, February 12th known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4th, the first Monday in September known as "Labor Day," November 11th known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," and December 25th.

(b) The Governor in appointing any other day for a public fast, thanksgiving, or holiday may provide whether the public schools shall close on the day. If the Governor does not provide whether the public schools shall close, they shall continue in session on all special or limited holidays appointed by the Governor, but shall close on all other days appointed by the Governor for a public fast, thanksgiving, or holiday.

(c) The public schools shall close on every day appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

(d) The public schools shall continue in session on all legal holidays other than those designated by or pursuant to this section and shall hold proper exercises commemorating the day.

(e) When any of the holidays on which the schools would be closed fall on Sunday, the public schools shall close on the Monday following.

(f) When any of the holidays on which the schools would be closed fall on Saturday, the public schools shall close on the preceding Friday, and such Friday shall be declared a state holiday.

(g) If any holiday on which the public schools are required to close pursuant to subdivision (a) occurs under federal law on a date different than the date specified in subdivision (a), the governing board of any school district may close the public schools of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

(h) Nothing in this section is to be interpreted as authorizing a school district governing board to maintain schools in its district for a lesser number of days during the school year than the minimum established by law.

SEC. 2. Section 13656 of the Education Code is amended to read:

13656. All employees a part of the classified service shall be entitled to the following paid holidays provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday: January 1, February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4, the first Monday in September known as "Labor Day," November 11 known as "Veterans Day," that Thursday in November proclaimed by the

President as "Thanksgiving Day," December 25, every day appointed by the President, or the Governor of this state, as provided for in subdivisions (b) and (c) of Section 5201 for a public fast, thanksgiving or holiday, or any day declared a holiday under Section 877 or 5202 for classified or certificated employees. School recesses during the Christmas and Easter periods shall not be considered holidays for classified employees who are normally required to work during that period; provided, however, that this shall not be construed as affecting vacation rights specified in Section 13656.

Regular employees of the district who are not normally assigned to duty during the school holidays of December 25 and January 1 shall be paid for those two holidays provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.

When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a holiday herein listed falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. When a classified employee is required to work on any of said holidays, he shall be paid compensation, or given compensating time off, for such work, in addition to the regular pay received for the holiday, at the rate of time and one-half his regular rate of pay.

The provisions of Article 3 (commencing with Section 5201) of Chapter 2 of Division 6 shall not be construed to in any way limit the provisions of this section, nor shall anything in this section be construed to prohibit the governing board from adopting separate work schedules for the certificated and the classified services, or from providing holiday pay for employees who have not been in paid status on the days specified herein. Notwithstanding the adoption of separate work schedules for the certificated and the classified services, on any schoolday during which pupils would otherwise have been in attendance but are not and for which certificated personnel receive regular pay, classified personnel shall also receive regular pay whether or not they are required to report for duty that day.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 5 (commencing with Section 13701) of this chapter.

SEC. 3. Section 13656.2 of the Education Code is amended to read:

13656.2. Prior to July 1 of any school year, the governing board of any school district may designate other days during such year as the holidays to which classified employees are entitled in lieu of the holidays on February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," or November 11 known as "Veterans Day" as specified in Section 13656, provided that such designated days will provide for at least a three-day weekend. Classified employees shall be required to work on the regular holiday for which

another day is designated pursuant to this section, and for work of eight hours or less, shall be paid compensation at their regular rate of pay.

If any classified employee would be entitled to the regular paid holiday but would not be in a paid status during any portion of the working day immediately preceding or succeeding the day so designated in lieu of such holiday and therefore would not be entitled to such day in lieu of the holiday, he shall be entitled to the regular holiday; however, if he is required to work on such holiday, he shall be paid compensation at the rate of time and one-half of his regular rate of pay in addition to the regular pay received for the holiday.

This section shall not be construed to authorize the maintenance of schools on holidays other than as provided in Article 3 (commencing with Section 5201) of Chapter 2 of Division 6.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 5 (commencing with Section 13701) of this chapter.

SEC. 4. Section 13656.4 is added to the Education Code, to read:

13656.4. Notwithstanding any other provision of law, if the governing board of a school district does not designate September 9 known as "Admission Day" as a paid holiday for classified employees pursuant to Section 5202, the school district shall provide a substitute holiday for such employee.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 5 (commencing with Section 13701) of this chapter.

CHAPTER 1258

An act to amend Section 454 of the Elections Code, relating to elections.

[Approved by Governor September 27, 1976 Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 454 of the Elections Code is amended to read:

454. Upon demand of any Member of the Legislature or of Congress or any candidate who is to be voted for in the county, or in a city therein, or in a political subdivision of either, or upon written demand of his campaign committee, or of any committee for or against any proposed ballot measure, or of any committee for or against any referendum or initiative measure for which legal publication has been made, the county clerk shall furnish to such Member of the Legislature or of Congress or to either the candidate

or his campaign committee or to the ballot measure committee no more than two copies of the printed indexes of the registration for the primary and general elections in which such Member of the Legislature or of Congress may participate as a candidate, or for the election in which the candidate will participate, or the ballot measure will be voted upon, at a charge of fifty cents ($0.50) per thousand names. All moneys collected shall be deposited in the county treasury to the credit of the general fund.

For purposes of this section, the term "candidate" includes any person who declares in writing, under penalty of perjury, that he or she is a candidate, naming the office.

SEC. 2. It is the intent of the Legislature that if this bill and Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature are both chaptered and this bill is chaptered last that, notwithstanding the provisions of Section 28.5 of Assembly Bill No. 2606, Section 1 of this bill, amending Section 454 of the Elections Code shall not become operative, and Section 604.5 as proposed to be added to the Elections Code by Section 12.5 of Assembly Bill No. 2606 shall become operative. If, however, Assembly Bill No. 2606 is not chaptered, Section 1 of this bill amending Section 454 of the Elections Code shall become operative.

CHAPTER 1259

An act to amend Section 53036 of the Government Code, relating to local agencies.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 53036 of the Government Code is amended to read:

53036. No local agency as defined in Section 54951 shall sell, lease, or otherwise transfer real property owned by it and lying between the high water line of the Pacific Ocean and the public street or highway nearest the Pacific Ocean without reserving to the public the right of access over such real property, unless such local agency or its grantee shall make available to the public an alternate route which, in the judgment of the local agency, gives equal or greater public access to the Pacific Ocean in the same immediate vicinity.

Any public access right or rights identified or provided pursuant to this section shall be expressly described in any document effecting the sale, lease, or transfer of such real property.

SEC. 2. Enactment of this amendment to Section 53036 of the Government Code is not intended to affect in any way public rights or claims of any sort whether proven or not, nor is this amendment

intended to alter or affect in any way existing law with respect to public rights or claims, including any rights or claims arising from the doctrine of implied dedication and prescriptive rights.

CHAPTER 1260

An act to add Chapter 2.5 (commencing with Section 11800) to Division 8 of the Elections Code, relating to elections.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Chapter 2.5 (commencing with Section 11800) is added to Division 8 of the Elections Code, to read:

CHAPTER 2.5. MASS MAILING

11800. No newsletter or other mass mailing shall be sent at public expense by or in behalf of an elected city, county, or district official, including an official of a chartered city or chartered county, to any person residing within the jurisdiction from which he or she was elected or to which he or she seeks election, after the elected official has filed a declaration of candidacy, nomination paper, affidavit of acceptance of sponsor's declaration, acceptance of nomination, or any other paper evidencing an intention to be a candidate for any local, state, or federal office.

11801. "Mass mailing" means identical or nearly identical pieces of mail in an amount which, in any month, exceeds 1 percent of the population of the jurisdiction from which the official was elected, according to the latest federal census, or which, in the 30 days preceding a local election, exceeds 200 pieces, but does not include a form letter or other mail which is sent in response to a letter or inquiry or an official mailing required by law.

11802. The Legislature hereby finds and declares that the provisions of this chapter constitute a matter of statewide concern. Accordingly, it is the intent of the Legislature that this chapter apply to chartered cities.

CHAPTER 1261

An act to amend Sections 18661 and 22458.1 of the Financial Code, and to add Section 779.27 to the Insurance Code, relating to credit life and disability insurance.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 18661 of the Financial Code is amended to read:

18661. (a) An industrial loan company may provide and collect the costs for credit life insurance on the life of one or more of the borrowers and credit disability insurance to provide indemnity for payments becoming due on the indebtedness, with his or her consent, the form to be approved by the Insurance Commissioner and in an amount not in excess of the amount of the indebtedness. The amount charged to the borrower for such insurance shall not exceed, in the case of credit life insurance, the amount provided in (1) or (2) following, whichever is less, or, in the case of credit disability insurance, unless a regulation has been promulgated and established pursuant to Section 18661.1, in which case the amount charged shall not exceed the amount prescribed by such regulation, the amount provided in (1) following:

(1) The premium rate filed with the Commissioner of Insurance for the coverage provided pursuant to Article 5.9 (commencing with Section 779.1), Chapter 1, Part 2, Division 1 of the Insurance Code and which has not been disapproved by him, or

(2) Fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or such different maximum as is fixed by the Commissioner of Insurance by a valid and effective regulation hereafter adopted.

(b) An industrial loan company may collect the costs for insurance of tangible personal or real property offered as security for a loan, reasonably insured against loss for a reasonable term considering the circumstances of the loan, when the policy of insurance is made payable to the borrower or any member of his family, even though the customary mortgagee clause is attached, and if the insurance is sold at standard rates through duly licensed insurance agents except that if title insurance is obtained in connection with a loan, the costs for such insurance may only be collected if: (1) the loan is in an amount of at least one thousand dollars ($1,000) and is secured by the lien of a deed of trust or mortgage on real property which is the subject of such policy of title insurance; (2) the policy of title insurance is made payable to the lender or jointly to such lender and the borrower as their interests may appear; (3) the amount of such insurance does not exceed the amount of the loan; (4) such insurance is placed at standard rates through a title insurance company authorized to do business in the State of California; and (5) the provisions of the loan require payment in not less than 12 months. A policy of title insurance may not be required in connection with the renewal or extension of a loan with an unpaid principal balance of less than one thousand dollars ($1,000). Such costs as herein

authorized are not included in computing the maximum charges which may be made under this division.

(c) If life or disability insurance is provided pursuant to this section, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan (excluding unearned charges) outstanding on the date of his death, or all amounts which become due on the loan thereafter during the period of such disability, as the case may be, without any exception, reservation or limitation, subject, however, to the provisions of Section 18661.2. Any such life or disability insurance as is provided shall be in force as soon as the loan is made. A licensee shall not require credit life or disability insurance as a condition of making a loan.

SEC. 2. Section 22458.1 of the Financial Code is amended to read:

22458.1. Credit life insurance on the life of a borrower and credit disability insurance shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Sections 22004, 22456 or 22457 when such insurance is provided in accordance with the provisions of the Insurance Code and this section.

(a) A licensee may provide insurance on the life of one or more borrowers and credit disability insurance to provide indemnity for payments becoming due on the indebtedness, with his or her consent, the form to be approved by the Insurance Commissioner and in an amount not in excess of the amount of the indebtedness and may collect from the borrower an amount not in excess of that permitted by subdivision (d) of this section. If the loan is prepaid in full by cash, a new loan, refinancing or otherwise (except by said insurance) before the final installment date, the borrower shall receive a rebate of said amount computed in accordance with the method established in Section 22480 or in accordance with the formula approved by the Insurance Commissioner pursuant to Section 779.14 of the Insurance Code, whichever would result in a greater rebate to the borrower. When charges for the loan are precomputed in accordance with Section 22480, any required rebate and any permitted deferment charge may be computed on the combined total of the precomputed charge and the life or credit disability insurance charge. Only one such amount may be collected in connection with any loan contract irrespective of the number of borrowers, and only one borrower need be insured. Such amount may be deducted from the principal of the loan. If such life or disability insurance is provided, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance shall be sufficient to pay the total amount due on the loan (excluding unearned charges) outstanding on the date of his death, or all amounts which become due on the loan thereafter during the period of such disability, as the case may be, without any exception, reservation or limitation, subject, however, to the provisions of Section 22458.2. Any such life or disability insurance as is provided

shall be in force as soon as the loan is made.

(b) No licensee shall decline new or existing insurance which meets or exceeds the standards set forth in this section, nor prevent any borrower from obtaining such insurance coverage from other sources. A licensee shall not require credit life or disability insurance as a condition of making a loan.

(c) If a borrower procures such insurance by or through a licensee, the statement required by Section 22473 shall disclose the cost thereof to the borrower, and the licensee shall deliver or cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof, within a reasonable time. In the event a licensee provides credit disability insurance pursuant to this division, the licensee shall also deliver an understandable written statement to the borrower detailing the conditions when the borrower will be entitled to make a claim under the insurance policy and the procedure to be followed in making such claim. This statement shall be first approved by the commissioner.

(d) The amount charged to the borrower for such insurance shall not exceed in the case of credit life insurance the amount provided in (1) or (2) following, whichever is less, or, in the case of credit disability insurance, unless a regulation has been promulgated and established pursuant to subdivision (e) of this section, in which case the amount charged shall not exceed the amount prescribed by such regulation, the amount provided in (1) following:

(1) The premium rate filed with the Insurance Commissioner for the coverage provided pursuant to Article 5.9 (commencing with Section 779.1) of Chapter 1, Part 2, Division 1 of the Insurance Code and which has not been disapproved by him, or

(2) Fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or such different maximum as shall have been fixed by the Insurance Commissioner by a valid and effective regulation adopted on or after December 31, 1961 and applicable to all licensees under the Personal Property Broker Law.

(e) Each two years beginning in 1961, the commissioner shall, not later than 90 days after the date when licensees are required to file annual reports pursuant to Section 22408 compile and send to the Insurance Commissioner the total dollar amount of all death and disability claims paid on insured borrowers together with data from which the amounts at risk may be calculated, the sum of the total charges collected by such licensees for such insurance and data as to the actual costs to such licensees for providing and servicing such insurance (excluding any sums paid to or received from insurance companies) for each of the 12 months during each of the preceding years being reported upon. The Insurance Commissioner shall study the data so furnished by the Commissioner of Corporations together with any trend factors established by other California credit life and disability insurance experience and shall promulgate and establish a

41486 292235 336

general regulation fixing the maximum which may be charged for such insurance by licensees hereunder having due regard to the relation of the total amount of death and disability claims paid to the amounts at risk during the same period, and a reasonable margin for contingencies and cost and compensation to licensees for providing and servicing such insurance, plus the premium taxes payable on the probable premiums to be charged by insurers, plus the probable, but not unreasonable, markup to be added by insurers to the risk cost. Any such changed maximum rate of premium or identifiable charge shall not affect any insurance then in force on borrowers. Any regulation under this section shall be adopted after a hearing and in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 779.27 is added to the Insurance Code, to read:

779.27. In accordance with this article and the regulations adopted pursuant to Section 779.21, the commissioner shall, after notice and public hearing, promulgate regulations setting forth standard forms of credit life and disability insurance policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements, and riders. The use of such forms shall be mandatory, except that commissioner may approve the use of nonstandard forms which are in accord with this article and the regulations adopted pursuant to Section 779.21.

CHAPTER 1262

An act to add Section 3092 to the Labor Code, relating to apprenticeship training.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 3092 is added to the Labor Code, to read:

3092. A successful graduate of a training program in a particular apprenticeable occupation of a vocational education program meeting the standards of the California State Plan for Vocational Education may receive credit toward a term of apprenticeship if the program is jointly established and approved by a school district, a county superintendent of schools, a public entity conducting a regional occupational center or program, or a private postsecondary vocational school accredited by a regional or national accrediting agency recognized by the United States Office of Education and the local joint apprenticeship committee of the particular apprenticeable occupation.

CHAPTER 1263

An act to amend Sections 66424 and 66445 of the Government Code, relating to maps.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 66424 of the Government Code is amended to read:

66424. "Subdivision" means the division of any improved or unimproved land, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future except for leases of agricultural land for agricultural purposes. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. "Subdivision" includes a condominium project, as defined in Section 1350 of the Civil Code or a community apartment project, as defined in Section 11004 of the Business and Professions Code. Any conveyance of land to a governmental agency, public entity or public utility shall not be considered a division of land for any purpose. As used in this section, "agricultural purposes" means the cultivation of food or fiber or the grazing or pasturing of livestock.

SEC. 2. Section 66445 of the Government Code is amended to read:

66445. The parcel map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall show the location of streets and property lines bounding the property and shall conform to all of the following provisions:

(a) It shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

(b) The size of each sheet shall be 18 x 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) Each parcel shall be numbered or otherwise designated.

(d) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated.

(e) The map shall show the location of each parcel and its relation to surrounding surveys. The location of any remainder of the original parcel shall be indicated, but need not be indicated as a matter of survey but only by deed reference to the existing record boundaries of such remainder if such remainder has a gross area of five acres or more.

(f) Subject to the provisions of Section 66436, a certificate, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the parcel map is required, except that less inclusive requirements may be provided by local ordinance.

(g) It shall also satisfy any additional map requirements of local ordinances consistent with this division.

SEC. 2.5. Section 66445 of the Government Code is amended to read:

66445. The parcel map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall show the location of streets and property lines bounding the property and shall conform to all of the following provisions:

(a) It shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

(b) The size of each sheet shall be 18 x 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) Each parcel shall be numbered or otherwise designated.

(d) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated.

(e) The map shall show the location of each parcel and its relation to surrounding surveys. The location of any remainder of the original parcel shall be indicated, but need not be indicated as a matter of survey but only by deed reference to the existing record boundaries of such remainder if such remainder has a gross area of five acres or more.

(f) Subject to the provisions of Section 66436, a certificate, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the parcel map is required, except that less inclusive requirements may be provided by local ordinance.

However, with respect to a division of land into four or fewer parcels, where dedications or offers of dedications are not required,

the certificate shall be signed and acknowledged by the subdivider only.

(g) It shall also satisfy any additional map requirements of local ordinances consistent with this division.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 2842 are both chaptered and become effective January 1, 1977, both bills amend Section 66445 of the Government Code, and this bill is chaptered after Assembly Bill No. 2842, that the amendments to Section 66445 proposed by both bills be given effect and incorporated in Section 66445 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 Assembly Bill No. 2842 are both chaptered and become effective January 1, 1977, both amend Section 66445, and this bill is chaptered after Assembly Bill No. 2842, in which case Section 2 of this act shall not become operative.

CHAPTER 1264

An act to repeal Sections 68090 and 68091 of the Government Code, and to amend Section 937 of the Penal Code, relating to court interpreters and translators.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 68090 of the Government Code is repealed.

SEC. 2. Section 68091 of the Government Code is repealed.

SEC. 3. Section 937 of the Penal Code is amended to read:

937. The grand jury or district attorney may require by subpoena the attendance of any person before the grand jury as interpreter. While his services are necessary, such interpreter may be present at the examination of witnesses before the grand jury. The compensation for services of such interpreter constitutes a charge against the county, and shall be fixed by the grand jury.

CHAPTER 1265

An act to amend Sections 2982, 2983.2, and 2983.3 of, and to add Section 2982.8 to, the Civil Code, relating to automobile sales.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 2982 of the Civil Code is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than six-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of the unpaid balance, which is the sum of items 3, 4, and 5.

7. The amount of the finance charge.

8. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

9. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

10. A notice, in at least eight-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this

agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater. The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to maturity by prepayment or refinancing, or upon surrender or repossession and disposition of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the sum of the periodic time balances payable more than 15 days after the date of prepayment (or other event entitling the buyer to the refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (c) of this section. Where the amount of such refund is less than one dollar ($1), no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 8, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise. This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the purpose of computing any penalty under Section 2983.1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single document requirement of subdivision (a).

SEC. 2. Section 2982.8 is added to the Civil Code, to read:

2982.8. (a) If a buyer is obligated under the terms of the conditional sale contract to maintain insurance on the vehicle and subsequent to the execution of the contract the buyer either fails to maintain or requests the holder to procure such insurance, any amounts advanced by the holder to procure such insurance may be added to the contract balance and shall be secured by the motor vehicle provided that the holder notifies the buyer in writing of his or her option to repay such amounts in any one of the following ways:

(1) Full payment upon demand.

(2) Full amortization during the term of the insurance.

(3) Full amortization after the term of the conditional sale contract to be payable in installments which do not exceed the average payment allocable to a monthly period under the contract.

(4) If offered by the holder, any other amortization plan.

(b) The written notification described in subdivision (a) shall also set forth the amounts advanced by the holder and, with respect to each amortization plan, the amount of the finance charge, the sum of the amounts advanced and the finance charge, the number of installments required, the amount of each installment and the date for payment of the installments.

(c) The maximum finance charge which may be imposed on amounts advanced by the holder hereunder shall not exceed the rate specified in subdivision (c) of Section 2982.

SEC. 3. Section 2983.2 of the Civil Code is amended to read:

2983.2. (a) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, at least 10 days' written notice of intent to dispose of a repossessed or surrendered motor vehicle must be given to all persons liable on the contract. The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the contract. Except as otherwise provided in Sections 2983.8 and 2983.9, such persons shall be liable for any deficiency after disposition of the repossessed or surrendered motor vehicle only if the notice prescribed by this section is given within 60 days of repossession or surrender and does all of the following:

(1) Sets forth that such persons shall have a right to redeem the motor vehicle by paying in full the indebtedness evidenced by the contract until the expiration of 10 days from the date of giving or mailing the notice and provides an itemization of the contract balance and of any delinquency, collection or repossession costs and fees and sets forth the computation or estimate of the amount of any credit for unearned finance charges or canceled insurance as of the date of the notice.

(2) States either that there is a conditional right to reinstate the contract until the expiration of 10 days from the date of giving or mailing the notice and all the conditions precedent thereto or that there is no right of reinstatement and provides a statement of reasons therefor.

(3) States that, upon written request, the seller or holder shall extend for an additional 10 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and reinstatement periods. The seller or holder shall provide the proper form for applying for such extensions with the substance of such form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by first-class mail, return receipt requested, to a person or office and address designated by the seller or holder.

(4) Discloses the place at which the motor vehicle will be returned to such persons upon redemption or reinstatement.

(5) Designates the name and address of the person or office to whom payment shall be made.

(6) States the seller's or holder's intent to dispose of the motor vehicle upon the expiration of 10 days from the date of giving or mailing the notice, or if by mail and either the place of deposit in the mail or the place of address is outside of this state, the period shall be 20 days instead of 10 days, and further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the seller or holder shall without further notice extend the period accordingly.

(7) Informs such persons that upon written request, the seller or holder shall furnish a written accounting regarding the disposition of the motor vehicle as provided for in subdivision (b). The seller or holder shall advise them that such request must be personally served or sent first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the seller or holder.

(8) Includes notice, in at least 10-point bold type if the notice is printed, reading as follows: "NOTICE. YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE CONTRACT BALANCE AND ANY OTHER AMOUNTS DUE."

(b) Unless automatically provided to the buyer within 45 days after the disposition of the motor vehicle, the seller or holder shall provide to any person liable on the contract within 45 days after their written request, if such request is made within one year after the disposition, a written accounting regarding the disposition. Such accounting shall itemize:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary expenses incurred for retaking, holding, preparing for and conducting the sale and to the extent provided for in the agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the seller or holder in retaking the vehicle from any person not a party to the contract.

(3) The satisfaction of indebtedness secured by any subordinate lien or encumbrance on the motor vehicle if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the seller or holder, the holder of a subordinate lien or encumbrance must seasonably furnish reasonable proof of its interest, and unless it does so, the seller or holder need not comply with its demand.

(c) In all sales which result in a surplus, the seller or holder shall furnish an accounting as provided in subdivision (b) whether or not requested by the buyer. Such surplus shall be returned to the buyer within 45 days after the sale is conducted.

SEC. 4. Section 2983.3 of the Civil Code is amended to read:

2983.3. (a) In the absence of default in the performance of any of the buyer's obligations under the contract, the seller or holder may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.

(b) If after default by the buyer, the seller or holder repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the contract shall have a right to reinstate the contract and the seller or holder shall not accelerate the maturity of any part or all of the contract prior to expiration of such right to reinstate, unless the seller or holder reasonably and in good faith determines that:

(1) The buyer or any other person liable on the contract by omission or commission intentionally provided false or misleading information of material importance on his or her credit application.

(2) The buyer or any other person liable on the contract in order to avoid repossession has concealed the motor vehicle or removed it from the state; or

(3) The buyer or any other person liable on the contract has committed or threatens to commit acts of destruction, or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has or may become substantially impaired in value.

(c) Exercise of such right to reinstate the contract shall be limited to once in any 12 months period and twice during the term of the contract.

(d) The provisions of this subdivision shall govern the method by which a contract shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession.

(1) Where the default is the result of the buyer's failure to make any payment due under the contract, the buyer or any other person liable on the contract shall make the defaulted payments and pay any applicable delinquency charges.

(2) Where the default is the result of the buyer's failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the buyer or any other person liable on the contract shall either satisfy all such encumbrances and liens or, in the event the seller or holder satisfies the encumbrances and liens, the buyer or any other person liable on the contract shall reimburse the seller or holder for all reasonable costs and expenses incurred therefor.

(3) Where the default is the result of the buyer's failure to keep and maintain insurance on the motor vehicle, the buyer or any other person liable on the contract shall either obtain the insurance or, in the event the seller or holder has obtained the insurance, the buyer or any other person liable on the contract shall reimburse the seller or holder for premiums paid and all reasonable costs and expenses incurred therefor.

(4) Where the default is the result of the buyer's failure to perform any other obligation under the contract, unless the seller or holder has made a good faith determination that the default is so substantial as to be incurable, the buyer or any other person liable

on the contract shall reimburse the seller or holder for all reasonable costs and expenses incurred therefor.

(5) Additionally, the buyer or any other person liable on the contract shall, in all cases, reimburse the seller or holder for all reasonable and necessary collection and repossession costs and fees incurred, including attorney's fees and legal expenses expended in retaking and holding the vehicle.

(e) If the seller or holder denies the right to reinstatement under subdivision (b) or paragraph (4) of subdivision (d), the seller or holder shall have the burden of proof that such denial was justified in that it was reasonable and made in good faith. If the seller or holder fails to sustain such burden of proof, the seller or holder shall not be entitled to a deficiency.

SEC. 5. The provisions of Section 2 are intended to abrogate any contrary rule in Winters v. Security Pacific National Bank, 49 Cal. App. 3d 510, regarding the addition of money advanced by the holder of a conditional sale contract for insurance on a motor vehicle to the contract balance.

SEC. 6. The provisions of Sections 1 to 4, inclusive, shall have prospective application only to all contracts entered into on or after January 1, 1977.

CHAPTER 1266

An act to amend Section 12389 of the Insurance Code, relating to underwritten title companies.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 12389 of the Insurance Code is amended to read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, certificates or abstracts of title, upon the basis of which a title insurer writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with the provisions of Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

4 1915 29 2 480 385

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business.	Amount of required minimum net worth
Less than 10,000	$20,000
10,000 to 50,000	30,000
50,000 to 100,000	60,000
100,000 to 500,000	100,000
500,000 to 1,000,000	150,000
1,000,000 or more	200,000

"Net worth" is defined as the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title plant provided the value ascribed to such asset shall not exceed the lesser of: (a) the actual cost thereof, or (b) 50 percent of its stated capital, as defined in Section 1900 of the Corporations Code.

Where the information in the title plant is not being kept current, the asset value of such plant shall not exceed the actual cost less 20 percent of the actual cost for each 12-month period, immediately preceding the date such asset is valued for purposes of this subdivision, that the title plant is not actually maintained.

An underwritten title company at all times shall maintain current assets of at least ten thousand dollars ($10,000) in excess of its current liabilities, as such current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making such regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3) Such an underwritten title company shall obtain from the commissioner a license to transact its business. Such license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to applicant. After issuance the holder shall continue to comply with the requirements as to its business set forth in this code, in the applicable rules and regulations of the commissioner and in the laws of this state.

Any underwritten title company who possesses, or is required to possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1 of this code and shall be deemed to be subject to authorization by the Insurance Commissioner within the meaning of subdivision (e) of Section 25100 of the Corporations Code.

Such license may be obtained by filing an application on a form

prescribed by the commissioner accompanied by a filing fee of one hundred dollars ($100). Such license when issued shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

An underwritten title company seeking to extend its license to an additional county shall pay a one-hundred-dollar ($100) fee for each such additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net worth requirements of paragraph (2), of its financial ability to expand its business operation to include such additional county or counties.

(4) Such an underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March 31st or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any such audit may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit an audit on time, or within such extended time as the commissioner may grant, shall be grounds for an order by the commissioner to accept no new business pursuant to subdivision (d). Such audits shall be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

The audit shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant approved by the commissioner specifically for the particular company. Approval of an auditor for a particular company shall not be deemed to be a licensing of the auditor nor approval of the auditor for any other company or any other purpose. Any such approval, or the renewal thereof, shall automatically expire on the first day of January in the fifth calendar year following the date of original or renewal approval. The fee for filing an application for such approval or the renewal thereof shall be ten dollars ($10). The fee for filing the audit shall be twenty-five dollars ($25).

The commissioner may deny or revoke approval or renewal of approval of an auditor for any of the following reasons:

(i) Adverse result in any proceeding before the State Board of Accountancy affecting the auditor's license;

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors which would prevent his reports on the company from being reasonably objective;

(iii) The auditor has suffered conviction of any misdemeanor or felony based on his activities as an accountant; or

(iv) Judgment adverse to the auditor in any civil action finding him guilty of fraud, deceit or misrepresentation in the practice of his profession.

Any company which fails to file any audit or other report on or

before the date it is due shall pay to the commissioner a penalty fee of one hundred dollars ($100) and on failure to pay such or any other fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(b) Such an underwritten title company may engage in the escrow business and act as escrow agent provided that:

(1) All funds deposited with the company in connection with any escrow shall be deposited in a bank in a separate trust account, and such funds shall be the property of the person or persons entitled thereto under the provisions of the escrow and segregated escrow by escrow in the records of the company. Such funds shall not be subject to any debts of the company and shall be used only to fulfill the terms of the individual escrow under which the funds were accepted and none of such funds shall be used until all conditions of the escrow have been met.

Bona fide drafts executed by persons fully responsible financially may at the option of the company, be deemed the equivalent of funds already cleared into such bank deposit unless another law of this state prohibits such persons from tendering such drafts to escrow holders for the purpose of closing escrows.

Any interest received on funds deposited with the company in connection with any escrow which are deposited in a bank shall be paid over to the depositing party to the escrow and shall not be transferred to the account of the company.

(2) It shall maintain record of all receipts and disbursements of escrow funds.

(3) It shall deposit seven thousand five hundred dollars ($7,500) for each county in which it transacts business in some form permitted by Section 12351 with the commissioner who shall forthwith make a special deposit thereof in the State Treasury and such deposit shall be subject to the provisions of Sections 12353, 12356, 12357, and 12358 and as long as there are no claims against the deposit all interest and dividends thereon shall be paid to the depositor. The deposit shall be for the security and protection of persons having lawful claims against the depositor growing out of escrow transactions with it. Such deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(A) The commissioner may release such deposits prior to the passage of such four-year period upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate holder subject to the jurisdiction of the commissioner.

(B) With the foregoing exceptions, the deposit shall be returned to the depositor or lawful successor in interest following the four-year period, upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit stemming

from escrow transactions handled by the depositor. If the commissioner has evidence of one or more claims against the depositor, and the depositor is not in conservatorship or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by it have priority in such distribution over other claims against the depositor.

(4) It shall obtain and maintain a fidelity bond on file with the commissioner, to cover all officers and employees of the company who participate in any escrow transaction that is handled by the company. Such bond shall be a blanket bond or, with the approval of the commissioner, may be a position or individual bond. The commissioner shall prescribe the amount of the bond which shall not exceed two hundred thousand dollars ($200,000).

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All such examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 is guilty of a misdemeanor and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out such purposes the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. Each such company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

Such rules and regulations shall be adopted, amended or repealed in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 12389 of the Insurance Code is amended to read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, certificates or abstracts of title, upon the basis of which a title insurer

writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with the provisions of Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business.	Amount of required minimum net worth
Less than 10,000	$20,000
10,000 to 50,000	30,000
50,000 to 100,000	60,000
100,000 to 500,000	100,000
500,000 to 1,000,000	150,000
1,000,000 or more	200,000

"Net worth" is defined as the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title plant provided the value ascribed to such asset shall not exceed the lesser of: (a) the actual cost thereof, or (b) 50 percent of its stated capital, as defined in Section 1900 of the Corporations Code.

Where the information in the title plant is not being kept current, the asset value of such plant shall not exceed the actual cost less 20 percent of the actual cost for each 12-month period, immediately preceding the date such asset is valued for purposes of this subdivision, that the title plant is not actually maintained.

An underwritten title company at all times shall maintain current assets of at least ten thousand dollars ($10,000) in excess of its current liabilities, as such current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making such regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3) Such an underwritten title company shall obtain from the commissioner a license to transact its business. Such license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to applicant. After issuance the holder shall continue to comply with the requirements as to its business set forth in this code, in the

applicable rules and regulations of the commissioner and in the laws of this state.

Any underwritten title company who possesses, or is required to possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1 of this code and shall be deemed to be subject to authorization by the Insurance Commissioner within the meaning of subdivision (e) of Section 25100 of the Corporations Code.

Such license may be obtained by filing an application on a form prescribed by the commissioner accompanied by a filing fee of three hundred dollars ($300). Such license when issued shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

An underwritten title company seeking to extend its license to an additional county shall pay a one-hundred-seventy-five-dollar ($175) fee for each such additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net worth requirements of paragraph (2), of its financial ability to expand its business operation to include such additional county or counties.

(4) Such an underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March 31st or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any such audit may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit an audit on time, or within such extended time as the commissioner may grant, shall be grounds for an order by the commissioner to accept no new business pursuant to subdivision (d). Such audits shall be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

The audits shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant approved by the commissioner specifically for the particular company. Approval of an auditor for a particular company shall not be deemed to be a licensing of the auditor nor approval of the auditor for any other company or any other purpose. Any such approval, or the renewal thereof, shall automatically expire on the first day of January in the fifth calendar year following the date of original or renewal approval. The fee for filing an application for such approval or the renewal thereof shall be seventeen dollars and fifty cents ($17.50). The fee for filing the audit shall be thirty-seven dollars and fifty cents ($37.50).

The commissioner may deny or revoke approval or renewal of approval of an auditor for any of the following reasons:

(i) Adverse result in any proceeding before the State Board of Accountancy affecting the auditor's license;

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors which would prevent his reports on the company from being reasonably objective;

(iii) The auditor has suffered conviction of any misdemeanor or felony based on his activities as an accountant; or

(iv) Judgment adverse to the auditor in any civil action finding him guilty of fraud, deceit or misrepresentation in the practice of his profession.

Any company which fails to file any audit or other report on or before the date it is due shall pay to the commissioner a penalty fee of one hundred dollars ($100) and on failure to pay such or any other fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(b) Such an underwritten title company may engage in the escrow business and act as escrow agent provided that:

(1) All funds deposited with the company in connection with any escrow shall be deposited in a bank in a separate trust account, and such funds shall be the property of the person or persons entitled thereto under the provisions of the escrow and segregated escrow by escrow in the records of the company. Such funds shall not be subject to any debts of the company and shall be used only to fulfill the terms of the individual escrow under which the funds were accepted and none of such funds shall be used until all conditions of the escrow have been met.

Bona fide drafts executed by persons fully responsible financially may at the option of the company, be deemed the equivalent of funds already cleared into such bank deposit unless another law of this state prohibits such persons from tendering such drafts to escrow holders for the purpose of closing escrows.

Any interest received on funds deposited with the company in connection with any escrow which are deposited in a bank shall be paid over to the depositing party to the escrow and shall not be transferred to the account of the company.

(2) It shall maintain record of all receipts and disbursements of escrow funds.

(3) It shall deposit seven thousand five hundred dollars ($7,500) for each county in which it transacts business in some form permitted by Section 12351 with the commissioner who shall forthwith make a special deposit thereof in the State Treasury and such deposit shall be subject to the provisions of Sections 12353, 12356, 12357, and 12358 and as long as there are no claims against the deposit all interest and dividends thereon shall be paid to the depositor. The deposit shall be for the security and protection of persons having lawful claims against the depositor growing out of escrow transactions with it. Such deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(A) The commissioner may release such deposits prior to the

passage of such four-year period upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate holder subject to the jurisdiction of the commissioner.

(B) With the foregoing exceptions, the deposit shall be returned to the depositor or lawful successor in interest following the four-year period, upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit stemming from escrow transactions handled by the depositor. If the commissioner has evidence of one or more claims against the depositor, and the depositor is not in conservatorship or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by it have priority in such distribution over other claims against the depositor.

(4) It shall obtain and maintain a fidelity bond on file with the commissioner, to cover all officers and employees of the company who participate in any escrow transaction that is handled by the company. Such bond shall be a blanket bond or, with the approval of the commissioner, may be a position or individual bond. The commissioner shall prescribe the amount of the bond which shall not exceed two hundred thousand dollars ($200,000).

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All such examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 is guilty of a misdemeanor and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out such purposes the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. Each such company shall be subject to the provisions of Article 14 (commencing with

Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

Such rules and regulations shall be adopted, amended or repealed in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 1976 are both chaptered and become effective January 1, 1977, both bills amend Section 12389 of the Insurance Code, and this bill is chaptered after Senate Bill No. 1976, that the amendments to Section 12389 proposed by both bills be given effect and incorporated in Section 12389 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 1976 are both chaptered and become effective January 1, 1977, both amend Section 12389, and this bill is chaptered after Senate Bill No. 1976, in which case Section 1 of this act shall not become operative.

CHAPTER 1267

An act to add Section 955.1 to the Government Code, relating to claims against public entities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 955.1 is added to the Government Code, to read:

955.1. (a) The science of earthquake prediction is developing rapidly and, although still largely in a research stage, such predictions are now being initiated and are certain to continue into the future. Administrative procedures exist within the Office of Emergency Services to advise the Governor on the validity of earthquake predictions. Numerous important actions can be taken by state and local governments and special districts to protect life and property in response to predictions and associated warnings. It is the intent of this legislation to insure that appropriate actions are taken in the public interest by government agencies without fear of consequent financial liabilities when acting in a responsible manner under such circumstances to assure public safety. This legislation is not intended to provide immunity for government officials and other government employees acting in a nondiscretionary capacity from liability for injuries arising out of ordinary negligence. It is also the intent of this legislation that actions taken by state and local agencies pursuant to the authorized dissemination of an earthquake prediction may be

taken under conditions other than a declared state of emergency.

(b) The Governor may, at his discretion, warn the public as to the existence of an earthquake prediction determined to have scientific validity. The state and its agencies shall not be liable for any injury resulting from the decision to issue or not to issue a warning pursuant to this subdivision.

(c) In addition, the state, its agencies, and its political subdivisions may, on the basis of a warning issued pursuant to subdivision (b), take, or fail or refuse to take, any action with relation to the warning issued which is otherwise authorized by law. In taking, or failing or refusing to take such action, the state, its agencies, and its political subdivisions shall be subject to the same immunities as apply to such action, or failure or refusal to take such action, when done upon any other valid basis.

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 that appropriate actions might be taken by government officials to assure the public safety and welfare in dealing with earthquake predictions, it is necessary that this act take effect immediately.

CHAPTER 1268

An act to amend Section 710 of the Code of Civil Procedure, relating to judgments.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. 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 six dollars ($6) 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.

CHAPTER 1269

An act to amend Sections 15420, 15421, and 15422 of the Government Code, relating to State Public Defender.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976]

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

SECTION 1. Section 15420 of the Government Code is amended to read:

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), (c) and (d) of Section 15421. This responsibility shall take precedence over all other duties and powers set forth in this chapter.

SEC. 2. Section 15421 of the Government Code is amended to read:

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 in which an inmate of a state prison is charged with an offense where the county public defender has refused to

represent the inmate because of a conflict of interest or other legal reason;

(e) A proceeding of any nature where a person is entitled to representation at public expense.

SEC. 3. Section 15422 of the Government Code is amended to read:

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. Except in cases of representation under subdivision (d) of Section 15421, the State Public Defender may decline to represent such person by filing a letter with the appropriate court citing Section 15420 of this chapter.

CHAPTER 1270

An act to add Section 14031 to the Government Code, and to amend Sections 2520, 2521, 2533, 2535, and 2537 of, to amend the heading of Chapter 12 (commencing with Section 2520) of Division 3 of, to add Sections 157.6, 2530, 2532, and 2534 to, and to repeal Sections 2522, 2530, 2531, 2532, 2534, and 2536 of, the Streets and Highways Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 14031 is added to the Government Code, to read:

14031. The Governor, the secretary, and the department may enter into such agreements, execute such documents, establish and manage such accounts and deposits, and take any other action that may be appropriate, in accordance with federal law and rules and regulations, to receive and expend funds from the federal government in connection with mass transportation programs and projects for which federal funds are available.

The department may undertake mass transportation research, development, and demonstration projects and perform technical studies related thereto, in accordance with applicable state or federal laws.

SEC. 2. Section 157.6 is added to the Streets and Highways Code, to read:

157.6. The department may enter into such agreements, execute such documents, establish and manage such accounts or deposits, or take any other action that may be appropriate, to receive and expend funds from the federal government in connection with state or local agency bicycle programs and projects for which federal funds are available. The department may undertake demonstration projects and perform technical studies.

SEC. 3. The heading of Chapter 12 (commencing with Section 2520) of Division 3 of the Streets and Highways Code is amended to read:

CHAPTER 12. FEDERAL AID FOR SAFER OFF-SYSTEM ROADS

SEC. 4. Section 2520 of the Streets and Highways Code is amended to read:

2520. This chapter may be cited as the Federal Aid for Safer Off-System Roads Act.

SEC. 5. Section 2521 of the Streets and Highways Code is amended to read:

2521. By the Federal-Aid Highway Amendments of 1974, and the Federal-Aid Highway Act of 1976, Congress has enacted Section 219 of Title 23 of the United States Code establishing a Safer Off-System Roads Program for the construction, reconstruction, and improvement (including, but not limited to, the correction of safety hazards, the replacement of bridges and the elimination of high-hazard locations and roadside obstacles) of any toll-free road, which is not on any federal-aid system and which is under the jurisdiction of and maintained by a public authority and open to public travel. Boards of supervisors, city councils, the department, and the commission may do all things necessary and proper in their respective jurisdictions to secure the federal funds available under this program for local roads and state highways in accordance with the intent of the federal act and this chapter.

SEC. 6. Section 2522 of the Streets and Highways Code is repealed.

SEC. 7. Section 2530 of the Streets and Highways Code is repealed.

SEC. 8. Section 2530 is added to the Streets and Highways Code, to read:

2530. (a) The federal act provides that sums apportioned to a state under this program be made available for projects throughout the state on a fair and equitable basis. It is in the interest of the state and its counties and cities that the federal funds made available for the Safer Off-System Roads Program be made available by the commission for use on county roads and city streets.

(b) The funds shall be apportioned among the counties in

accordance with the formula prescribed by federal law for apportionment among the states, except that no county shall receive less than one-half of 1 percent of each year's apportionment.

(c) The distribution of funds among the cities within each county and the county shall be determined by agreement between the county and a majority of the cities, which cities shall include a majority of the municipal population within the county. A copy of the agreement shall be filed with the department.

SEC. 9. Section 2531 of the Streets and Highways Code is repealed.

SEC. 10. Section 2532 of the Streets and Highways Code is repealed.

SEC. 11. Section 2532 is added to the Streets and Highways Code, to read:

2532. Within 60 days after the apportionment is made pursuant to subdivision (b) of Section 2530, each county shall notify the department as to the amount of the apportionment the county and its cities wish to claim.

SEC. 12. Section 2533 of the Streets and Highways Code is amended to read:

2533. The county or city responsible for the contruction of a safer off-system road project shall prepare the plans, specifications, and estimates of costs for the construction of the project in conformance with federal requirements for off-system roads, shall certify the necessary right-of-way, and shall submit such documents to the department within two years after the beginning of the federal fiscal year of apportionment in order to qualify for the funds made available during that federal fiscal year.

SEC. 13. Section 2534 of the Streets and Highways Code is repealed.

SEC. 14. Section 2534 is added to the Streets and Highways Code, to read:

2534. All funds not claimed pursuant to Section 2532, and all funds apportioned pursuant to Section 2530 and for which the documents required by Section 2533 were not submitted within the time limits established pursuant to that section, shall lapse.

The lapsed funds of a county shall be reallocated for expenditure upon safer off-system road projects of counties and cities within the other counties of the county group, as specified in Section 187, which included that county, based upon their proportional share of the original apportionment within that county group.

SEC. 15. Section 2535 of the Streets and Highways Code is amended to read:

2535. By agreement with the department, a county or city may transfer all or part of the funds apportioned to it under this chapter to a qualifying safer off-system roads project on a road under other governmental jurisdiction in the same county, or to a qualifying project in another county under such terms and conditions as are agreed upon by the department and the counties or cities, as the case

may be, involved.

SEC. 16. Section 2536 of the Streets and Highways Code is repealed.

SEC. 17. Section 2537 of the Streets and Highways Code is amended to read:

2537. The counties and cities may use any funds available to them to match federal funds made available under this chapter, if the use of funds for such matching purposes is not prohibited by federal law. "Match," as used in this chapter, means to provide for the payment of the cost of any project to the extent that such cost is not to be reimbursed from federal funds.

SEC. 18. 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. 19. 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:

Federal funds are now available for the Federal Bikeway Demonstration Program. The interim federal directives indicate that not more than 10 demonstration projects from the western region will be funded and proposed projects must be submitted by August 1, 1976. Moreover, the enacted Federal-Aid Highway Act of 1976 made various changes in the Off-System Roads Program and redesignated that program as the Safer Off-System Road Program. In order for the Department of Transportation to obtain proposals from, assure federal funding for, and enter into agreements with, local agencies for bikeway demonstration projects, and in order that statutory provisions conform to changes made in the Safer Off-System Road Program,, it is necessary that this act take effect immediately.

CHAPTER 1271

An act to amend, repeal, and add Section 7159 to the Business and Professions Code, to amend, repeal, and add Sections 1805.6 and 1810.10 to the Civil Code, and to add Section 41180 to the Health and Safety Code, relating to contracts, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 7159 of the Business and Professions Code is amended to read:

7159. This section shall apply only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to such transaction and who contracts with an owner or tenant for work upon a building or structure for proposed repairing, remodeling, altering, converting, or modernizing such building or structure and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and any changes in the contract subject to the provisions of this section shall be evidenced by a writing and shall be signed by all the parties to the contract thereto. The writing shall contain the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesman who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done and description of the materials to be used and the agreed consideration for the work.

(d) A schedule of payments showing the amount of each payment as a sum in dollars and cents.

If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, such downpayment shall not exceed one hundred dollars ($100) or 1 percent of the contract price, whichever is the greater.

In no event shall the payment schedule provide for the contractor to receive payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by this section.

The requirements pertaining to the payment schedule shall not apply when the contract provides for the contractor to furnish performance and payment bond, lien and completion bond, or a bond equivalent approved by the Registrar of Contractors covering 100 percent of the contract and such bonds are furnished by the contractor, or when the parties agree for full payment to be made upon satisfactory completion of the project.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee under this chapter, his agent, or salesman is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

This section shall remain in effect only until January 1, 1978, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1978, deletes or extends such date.

SEC. 2. Section 7159 is added to the Business and Professions Code, to read:

7159. This section shall apply only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to such transaction and who contracts with an owner or tenant for work upon a building or structure for proposed repairing, remodeling, altering, converting, or modernizing such building or structure and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and any changes in the contract subject to the provisions of this section shall be evidenced by a writing and shall be signed by all the parties to the contract thereto. The writing shall contain the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesman who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done and description of the materials to be used and the agreed consideration for the work.

(d) A schedule of payments showing the amount of each payment as a sum in dollars and cents.

(e) If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, such downpayment shall not exceed one hundred dollars ($100) or 1 percent of the contract price, whichever is the greater.

(f) In no event shall the payment schedule provide for the contractor to receive payment in excess of 100 percent of the value of the work performed on the project at any time, except that the contractor may receive an initial downpayment authorized by subdivision (e).

(g) The requirements of subdivisions (d), (e) and (f) pertaining to the payment schedule shall not apply when the contract provides

01655 293175 452

for the contractor to furnish performance and payment bond, lien and completion bond, or a bond equivalent approved by the Registrar of Contractors covering 100 percent of the contract and such bonds are furnished by the contractor, or when the parties agree for full payment to be made upon satisfactory completion of the project.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract; and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee under this chapter, his agent, or salesman is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

This section shall become operative January 1, 1978.

SEC. 3. Section 1805.6 of the Civil Code is amended to read:

1805.6. (a) Notwithstanding the provision of any contract to the contrary, except as provided in subdivision (b), no retail seller shall assess any finance charge against the amount financed for goods purchased under a retail installment contract until the goods are in the buyer's possession.

(b) A finance charge may be assessed against the amount financed for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase.

(c) This section shall not be construed to apply to home improvement contracts, as defined in Section 7151.2 of the Business and Professions Code.

(d) This section shall remain in effect only until January 1, 1978, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1978, deletes or extends such date.

SEC. 4. Section 1805.6 is added to the Civil Code, to read:

1805.6. (a) Notwithstanding the provision of any contract to the contrary, except as provided in subdivision (b), no retail seller shall assess any finance charge against the amount financed for goods purchased under a retail installment contract until the goods are in the buyer's possession.

(b) A finance charge may be assessed against the amount financed for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the

buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase.

(c) This section shall become operative on January 1, 1978.

SEC. 5. Section 1810.10 of the Civil Code is amended to read:

1810.10. (a) Notwithstanding the provision of any contract to the contrary, except as provided in subdivision (b), no retail seller shall assess any finance charge against the outstanding balance for goods purchased under a retail installment account until the goods are in the buyer's possession.

(b) A finance charge may be assessed against the outstanding balance for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase.

(c) This section shall not be construed to apply to home improvement contracts, as defined in Section 7151.2 of the Business and Professions Code.

(d) This section shall remain in effect only until January 1, 1978, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1978, deletes or extends such date.

SEC. 6. Section 1810.10 is added to the Civil Code, to read:

1810.10. (a) Notwithstanding the provision of any contract to the contrary, except as provided in subdivision (b), no retail seller shall assess any finance charge against the outstanding balance for goods purchased under a retail installment account until the goods are in the buyer's possession.

(b) A finance charge may be assessed against the outstanding balance for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase.

(c) This section shall become operative January 1, 1978.

SEC. 7. Section 41180 is added to the Health and Safety Code, to read:

41180. Notwithstanding the proviso to subitem (b) of Item 190 of the Budget Act of 1976, sixty thousand dollars ($60,000) of the amount appropriated by subitem (b) of Item 190 of the Budget Act of 1976 shall not be allocated and expended as provided therein and shall instead be allocated by the Department of Finance to the Department of Housing and Community Development for a loan to a community nonprofit organization for technical assistance in the development of an industrial park in the City of Calexico. Such loan shall be repaid upon such terms and conditions as may be prescribed

by the Department of Finance.

SEC. 8. (a) Sections 1, 3, and 5 of this act are declaratory of existing law and are intended to clarify existing law.

(b) However, Sections 2, 4, and 6 of this act shall be interpreted without regard to Sections 1, 3, and 5 of this act and without regard to the declaration in subdivision (a) of this section.

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

Home improvement contracts frequently involve the furnishing of goods and services over a period of time and frequently involve a deferred payment by the buyer pursuant to a retail installment contract or a retail installment account. In order to clarify the law, pending further study, so that persons may enter such contractual arrangements with certainty as to the construction of Chapters 511 and 1041 of the Statutes of 1975, it is necessary that this act take effect immediately.

CHAPTER 1272

An act to amend Sections 1179 and 1772 of the Welfare and Institutions Code, relating to the Youth Authority.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 1179 of the Welfare and Institutions Code is amended to read:

1179. All persons honorably dismissed from any such school and all persons who are retained at any such school for the full period of their respective commitments shall thereafter be released from all penalties or disabilities resulting from the offenses for which they were committed, including, but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. However, such a person shall not be eligible for appointment as a peace officer employed by any public agency, other than the Department of the Youth Authority, if his appointment would otherwise be prohibited by Section 1029 of the Government Code. Upon the final discharge or dismissal of any such person, the Youth Authority shall immediately certify such discharge or dismissal in writing, and shall transmit the certificate to the court by which the person was committed. The court shall thereupon dismiss the accusation and the action pending against such person.

SEC. 2. Section 1772 of the Welfare and Institutions Code is amended to read:

1772. Every person honorably discharged from control by the authority who has not, during the period of control by the authority, been placed by the authority in a state prison shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he was committed, and every person discharged may petition the court which committed him, and the court may upon such petition set aside the verdict of guilty and dismiss the accusation or information against the petitioner who shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he was committed, including, but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. However, such a person shall not be eligible for appointment as a peace officer employed by any public agency, other than the Department of the Youth Authority, if his appointment would otherwise be prohibited by Section 1029 of the Government Code.

Every person discharged from control by the authority shall be informed of this privilege in writing at the time of discharge.

"Honorably discharged" as used in this section means and includes every person whose discharge is based upon a good record on parole.

CHAPTER 1273

An act to amend Section 30700.5 of, and to add Section 72020.5 to, the Water Code, relating to water districts.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 30700.5 of the Water Code is amended to read:

30700.5. Notwithstanding Section 30021 or any other provision of the law, in the Pleasant Valley County Water District every owner of land within the district, but no others, may vote at the election for directors or otherwise. Such owners need not be residents of the district in order to qualify as voters. The last equalized county assessment roll is conclusive evidence of ownership of the real property so owned. Upon request by the county clerk, the county assessor shall provide within 45 days a certified list of every owner of real property within the district. Where the land is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of such land shall designate in writing which one of the owners shall be deemed the owner of such land for purposes of qualifying as a voter.

The legal representative of a corporation or estate owning real property may vote on behalf of such corporation or estate. As used

01805 293255 468

in this section, legal representative means an official of a corporation owning real property or a guardian, executor, or administrator of the estate of the holder of title to real property who:

(a) Is appointed under the laws of the state.

(b) Is entitled to possession of the estates real property.

(c) Is authorized by the appointing court to exercise the particular right, privilege or immunity which he seeks to exercise. Before a legal representative votes at a district election he shall present to the precinct board a certified copy of his authority which shall be kept and filed with the returns of the election.

Every voter, or his legal representative, may vote at any district election either in person or by a person duly appointed as his proxy, but shall be entitled to cast only one vote. The appointment of a proxy shall be as provided in Section 35005.

The provisions of this section shall apply only to a county water district heretofore formed in Pleasant Valley, Ventura County. These special provisions are necessary for reasons similar to those expressed in Section 30205.

SEC. 2. Section 72020.5 is added to the Water Code, to read:

72020.5. In addition to the provisions of Section 72020, in the Casitas Municipal Water District, the board may by resolution 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 the proposed improvement district. This special provision for Casitas Municipal Water District is necessary because the Legislature recognizes that certain proposed improvement districts in the Casitas Municipal Water District are controversial, that an election should be called, and that to require a petition to be circulated for recognized controversial improvement districts would constitute an unnecessary hardship. This problem is not common to all districts formed under this division. It is therefore hereby declared that a general law cannot be made applicable and that the enactment of this section as a special law is necessary for the solution of problems existing in the Casitas Municipal Water District.

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 1274

An act to amend Sections 99220, 99241, 99262, 99267, and 99400 of, and to add Section 99206.5 to, of the Public Utilities Code, relating to public transportation.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 99206.5 is added to the Public Utilities Code, to read:

99206.5. "Handicapped person" means any individual who by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including, but not limited to, any individual confined to a wheelchair, is unable, without special facilities or special planning or design, to utilize public transportation facilities and services as effectively as a person who is not so affected.

As used in this section, a temporary incapacity or disability is an incapacity or a disability which lasts more than 90 days.

SEC. 2. Section 99220 of the Public Utilities Code is amended to read:

99220. The Legislature finds and declares as follows:

(a) Public transportation is an essential component of the balanced transportation system which must be maintained and developed so as to permit the efficient and orderly movement of people and goods in the urban areas of the state. Because public transportation systems provide an essential public service, it is desirable that such systems be designed and operated in such a manner as to encourage maximum utilization of the efficiencies of the service for the benefit of the total transportation system of the state and as not to deprive the elderly, the handicapped, the youth, and the citizens of limited means of the ability to freely utilize the systems.

(b) The fostering, continuance, and development of public transportation systems are a matter of state concern. Excessive reliance on the private automobile for transportation has caused air pollution and traffic congestion in California's urban areas, and such pollution and congestion are not confined to single incorporated areas but affect entire regions. Furthermore, public transportation systems which are not designed so as to be usable by handicapped persons foster increased welfare costs and the waste of human resources. Thus, the Legislature has elected to deal with the multiple problems caused by a lack of adequate public transportation on a regional basis through the counties, with coordination of the programs being the responsibility of the state pursuant to contract with county governments.

(c) While providing county assistance to a particular transportation system may not be of primary interest and benefit to each and every taxpayer in a county, providing an integrated and coordinated system to meet the public transportation needs of an entire county will benefit the county as a whole. It is the purpose of this chapter to provide for such systems in those counties where they are needed.

(d) The local transportation funds authorized by Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code are made possible by the imposition of the state's sales and use taxes on motor vehicle fuel, which allows for a reduction in state taxes without a corresponding loss in revenue. By authorizing counties to increase their sales and use taxes, an additional source of revenue has been made available for public transportation within such counties. Applicants for a disbursement from a local transportation fund shall only be eligible for an allocation from the fund of the county in which such transportation is provided.

SEC. 3. Section 99241 of the Public Utilities Code is amended to read:

99241. Except for allocations made for purposes of Section 99234 and subdivision (a) of Section 99400, which shall be subject to the rules and regulations adopted by the transportation planning agency, all matters necessary and convenient to the implementation of this chapter shall be subject to rules and regulations, consistent with statute, adopted by the secretary, with the advice and consent of the State Transportation Board, and those rules and regulations may be revised from time to time.

Such rules and regulations shall specify the procedures by which evaluation and review by the transportation planning agency of public transportation claims shall be accomplished, and shall require submission of corresponding budgets or financial plans, certified financial statements, and other information required in connection therewith. The rules and regulations shall provide for the orderly and periodic distribution of moneys in the fund so that the areas served by the operator will be provided public transportation services on a continuing basis and so that there will be an orderly improvement and maintenance of the system of the operator. The rules and regulations shall provide for the approval of sufficient moneys from the local fund to accomplish the intent of the Legislature as expressed in the findings and declarations in Section 99220.

Such rules and regulations may require that the transportation planning agency, in reviewing claims, give due consideration to the level of the operator's passenger fares and charges, the efficiency of the operator's operations and operating policies and practices, the extent to which the operator is meeting the transportation needs of the area served, the transportation needs of handicapped persons, and the extent to which the operator is making full use of other available revenues and funds, including federal transportation grants.

SEC. 4. Section 99262 of the Public Utilities Code is amended to read:

99262. Claims for public transportation systems may include claims for money for all purposes necessary and convenient to the development and operation of the system, including planning and contributions to the transportation planning process, acquisition of real property, construction of facilities and buildings, purchase and

replacement of vehicles (including those usable by handicapped persons), and system operation, maintenance, and repair, payment for any of which purposes may take the form of direct expenditures or payment of principal and interest on equipment trust certificates, bonded or other indebtedness, or any amounts in accomplishment of a defeasance of any outstanding revenue bond indenture.

SEC. 5. Section 99267 of the Public Utilities Code is amended to read:

99267. (a) At least 15 percent of funds received under this article shall be used by an operator for capital expenditures. If, on January 1, 1975, the operator is a city and county with a population of 700,000 or more, it shall use at least 75 percent of such funds for capital expenditures.

(b) Such capital expenditures shall consist of acquisition of land and other real property, current acquisition or replacement of transportation vehicles or conveyances (including those usable by handicapped persons), and acquisition, construction, enlargement, or repair of property and facilities incidental to or necessary or convenient in connection with the foregoing, depreciation, and payment of principal and interest on its bonded indebtedness, equipment trust certificates, or other indebtedness, including any amounts in the accomplishment of a defeasance under any outstanding revenue bond indenture.

(c) The requirement specified in subdivision (a) shall not apply (1) to an operator in each fiscal year that it receives financial assistance from local sources, exclusive of fares, in an amount equal to or greater than the amount it would have been required to expend pursuant to subdivision (a) or (2) to money allocated to a transit district for a claim filed pursuant to Section 99260.5.

SEC. 6. Section 99400 of the Public Utilities Code, as amended by Chapter 287 of the Statutes of 1975, is amended to read:

99400. Claims may be filed with the transportation planning agency by cities and counties under this article for the following purposes:

(a) Local streets and roads, including facilities provided for the exclusive use by pedestrians and bicycles.

(b) Payments to the National Railroad Passenger Corporation for passenger rail service under Section 403(b) of the Federal Rail Passenger Service Act.

(c) Payments to a common carrier, as defined in Section 211, engaged in the transportation of persons, as defined in Section 208, for public transportation service provided under contract with a county with a population of under 300,000, or a city therein, and conducted pursuant to the jurisdiction and control of the Public Utilities Commission.

(d) Payment to any of the following entities which is under contract with a county which is not located, in whole or in part, within a transit district and which has a population of under 100,000, or a city therein, for transportation services for the elderly, the

handicapped, and any other group, as determined by the transportation planning agency, requiring special transportation assistance:

(1) A common carrier, as defined in Section 211, engaged in the transportation of persons, as defined in Section 208.

(2) A nonprofit corporation organized pursuant to Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code.

(3) An operator.

(e) Payments to a private operator of transportation services operated pursuant to a county or city ordinance, including, but not limited to, taxicab companies operating specialized equipment, for the purpose of providing transportation services for elderly and handicapped persons at fares no higher than those charged the able-bodied population utilizing the same or similar transportation service, pursuant to a contract with a county or a city; provided, that such payments shall not exceed 75 percent of the average cost to the general public of the transportation service provided by the private operator.

(f) Payments to a private nonprofit corporation or association operating specialized equipment for the purpose of providing transportation services for elderly and handicapped persons at fares no higher than those charged the able-bodied population utilizing the same or similar transportation service, pursuant to a contract with a county or a city; provided, that such payments shall not exceed 75 percent of the amount required to meet the total operating, maintenance, and capital requirements of the private nonprofit corporation or association in providing such transportation services, after deduction from its total revenue from such services of approved federal and state grants estimated to be received in connection with providing such services during the fiscal year in which payments are made.

(g) Prior to entering into a contract for services pursuant to subdivisions (e) and (f) of this section within the boundaries of an operator, the city or county shall first enter into a written agreement with the operator specifying the level of service to be mutually supplied and the coordinated operating plan for the services.

Subdivisions (e) and (f) shall not apply to any county or city authorized to make payments under subdivision (d).

This section shall remain in effect only until January 1, 1979, and as of that date is repealed.

SEC. 7. Notwithstanding Section 9605 of the Government Code, Section 99400 of the Public Utilities Code, as amended by Section 6 of this act, shall not become operative if Senate Bill No. 1687 is chaptered and amends Section 99400, regardless of whether that bill is chaptered before or after this act.

CHAPTER 1275

An act to amend Sections 10205 and 10218 of, to add Sections 58, 312, 315, 317, 703, and 10015 to, to repeal Sections 45, 46, 47, 48, 6403, and 10015 of, and to add Section 604.5 to, to add Division 1 (commencing with Section 100) to, to add Division 1.5 (commencing with Section 1000) to, and to add Chapter 5 (commencing with Section 29510) to Division 15 of, and to repeal Division 1 (commencing with Section 100) of, to repeal Chapter 3 (commencing with Section 600) of Division 1 of, to repeal Chapter 4 (commencing with Section 14600) of Division 9 of, and to repeal Chapter 5 (commencing with Section 14800) of Division 9 of, the Elections Code, relating to elections.

[Approved by Governor September 27, 1976 Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 45 of the Elections Code, as added by Chapter 226 of the Statutes of 1976, is repealed.

SEC. 2. Section 46 of the Elections Code, as added by Chapter 226 of the Statutes of 1976, is repealed.

SEC. 3. Section 47 of the Elections Code, as added by Chapter 226 of the Statutes of 1976, is repealed.

SEC. 4. Section 48 of the Elections Code, as added by Chapter 226 of the Statutes of 1976, is repealed.

SEC. 4.5. Section 58 is added to the Elections Code, to read:

58. On written call of the Secretary of State, the county clerks, city clerks, and registrars of voters of this state may meet with the approval of their legislative bodies, at the time and place within this state designated in the call, to discuss matters affecting the administration of the election laws and to promote uniformity of procedure in such matters. Meetings shall not exceed three in any calendar year. Any deputy of a county clerk, city clerk, or registrar of voters, designated for the purpose by his principal, may attend such meetings, alone or with his principal. The actual and necessary expenses of the county clerk, city clerk, or registrar of voters, and of a deputy, incurred in traveling to and from meetings and in attending the same, for each such officer for any one meeting, shall be a charge of the county or city of the clerk or registrar, and payable as other county or city charges.

SEC. 11. Division 1 (commencing with Section 100) of the Elections Code is repealed.

SEC. 12. Division 1 (commencing with Section 100) is added to the Elections Code, to read:

DIVISION 1. VOTERS

CHAPTER 1. QUALIFICATIONS

Article 1. General Provisions

100. Every person who qualifies under the provisions of Section 1 of Article II of the Constitution of this state and who complies with the provisions of this code governing the registration of electors is entitled to vote at any election held within the territory within which he resides and the election is held.

101. 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 407 for a judicial determination of his eligibility to register and vote.

102. The informational portion of the voter registration card shall inform each person who states he is either imprisoned or on parole for the conviction of a felony that his registration will be reviewed by the county clerk who will inform him of its acceptance or rejection.

Article 2. Residence

200. The residence of a person is that place in which his or her habitation is fixed and to which, whenever the person is absent, he or she has the intention of returning.

201. The term of residence is computed by including the day on which the person's residence commenced and by excluding the day of the election.

202. (a) A person who leaves his or her home to go into another state or precinct in this state for temporary purposes merely, with the intention of returning, does not lose his or her residence.

(b) A person does not gain a residence in any precinct into which he or she comes for temporary purposes merely, without the intention of making that precinct his or her home.

203. If a person moves to another state with the intention of making it his or her residence, the voter loses his or her residence in this state.

204. If a person moves to another state as a place of permanent residence, with the intention of remaining there for an indefinite time, he or she loses his or her residence in this state, notwithstanding that he or she intends to return at some future time.

205. The mere intention to acquire a new residence, without the fact of removal avails nothing, neither does the fact of removal

without the intention.

206. A person does not gain or lose residence solely by reason of his or her presence at or absence from a place while employed in the service of the United States or of this state, nor while engaged in navigation, nor while a student of any institution of learning, nor while kept in an almshouse, asylum or prison. This section shall not be construed to prevent a student at an institution of learning from qualifying as an elector in the locality where he or she resides while attending that institution, when in fact the student has abandoned his or her former residence.

207. The place where a person's family resides is his or her residence unless it is a place for temporary establishment for his or her family or for transient objects.

Residence in a trailer or vehicle or at any public camp or camping ground may constitute a residence for voting purposes if the registrant complies with the other requirements of this article.

208. If a person has a family fixed in one place, and he or she does business in another, the former is his or her place of residence, but any person having a family, who has taken up an abode with the intention of remaining and whose family does not so reside with him or her, is a resident where he or she has so taken up the abode.

209. A husband and wife each establishes his or her own residency. The residence of one spouse shall not be presumed to be that of the other, but shall be determined independently in accordance with this article.

210. A resident of this state who marries a person employed temporarily in this state in the service of the United States government, may elect to retain his or her residency for the purpose of qualifying as an elector only, except that such residency in this state shall terminate if such resident qualifies as an elector in any other state or any territory.

211. Whenever the house number or the mailing address of a voter has been changed and the voter's residence is the same, the public agency authorizing the change shall notify the county clerk in writing of the change and the county clerk shall make the change on the voter's affidavit of registration and a new affidavit shall not be required.

212. Except as otherwise provided in this section, a person who resides in a house or apartment lying in more than one precinct shall be registered as residing in that one of those precincts designated by him or her at the time he or she registers. In the absence of such designation the county clerk shall register the person as residing in that one of those precincts that he or she considers appropriate.

If a person resides in a house or apartment lying in more than one city, the person's residence shall be determined on the basis of the house or apartment's street address.

213. A person duly registered as a voter in any precinct in California who removes therefrom within 29 days prior to an election shall, for the purpose of such election, be entitled to vote in the

precinct from which the person so removed until the close of the polls on the day of such election.

CHAPTER 2. REGISTRATION

Article 1. General Provisions

300. No person shall be registered except as provided in this chapter unless upon the production and filing of a certified copy of a judgment of the superior court directing registration to be made.

301. No person shall be registered as a voter except by affidavit of registration. The affidavit shall be mailed or delivered in person to the county clerk or his deputy and shall set forth all of the facts required to be shown by this chapter. A properly executed registration shall be deemed effective upon receipt of the affidavit by the county clerk.

Notwithstanding any other provision of law to the contrary, the affidavit of registration required under the provisions of this chapter shall not be taken under sworn oath, but the content of the affidavit shall be certified as to its truthfulness and correctness, under penalty of perjury, by the signature of the affiant.

302. (a) It is the intent of the Legislature that the election board of each county, in order to promote and encourage voter registrations, shall establish a sufficient number of registration places throughout the county, and outside the county courthouse, for the convenience of persons desiring to register, to the end that registration may be maintained at a high level.

(b) It is also the intent of the Legislature that county clerks, in order to promote and encourage voter registrations, shall enlist the support and cooperation of interested citizens and organizations, and shall deputize as registrars qualified citizens in such a way as to reach most effectively every resident of the county. The persons so deputized shall be permitted to register voters anywhere within the county, including at the places of residence of the persons to be registered, and the county clerk shall not deny deputy registrars the right to register voters anywhere in the county.

(c) It is also 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 registration by citizens who lack sufficient skill in English to register without assistance.

(d) Where the county clerk finds that citizens described in subdivision (c) approximate 3 percent or more of the voting age residents of a precinct, or in the event that interested citizens or organizations provide information which the county clerk believes indicates a need for registration assistance for qualified citizens described in subdivision (c), the county clerk shall make reasonable efforts to recruit deputy registrars who are fluent in a language used by citizens described in subdivision (c) and in English. Such

02606 293415 500

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 (c). Deputy registrars so appointed shall facilitate registration in the particular precincts concerned and shall have the right to register voters anywhere in the county.

(e) In furtherance of the purposes of this section, the governing board of any county, city, city and county, district, or other public agency, may authorize and assign any of its officers or employees to become deputy registrars of voters and to register qualified citizens on any premises and facilities owned or controlled by such public agencies during the regular working hours of such officers or employees; provided, that with the exception of firemen, any compensation to which said officer or employee may be entitled in payment for the services of such officer or employee as a deputy registrar may be paid by the authority which appointed such officer or employee as a deputy registrar to the public agency which regularly employs such officer or employee.

(f) It is the intent of the Legislature that no limitation be imposed on the number of persons appointed to act as deputy regi ars of voters.

303. It is the intent of the Legislature that the introduction of registration by mail shall not in any way lead to administrative limitations on the use of deputy registrars of voters for the purpose of assisting in the registration of persons who may continue to require such assistance.

It is the intent of the Legislature that registrars continue to be deputized by the county clerk pursuant to Section 302, but that as the electorate becomes more conversant with mail registration procedures, the number of deputy registrars will naturally diminish due to a decrease in the demand for the services of such deputy registrars of voters.

304. It is the intent of the Legislature that voter registration be maintained at the highest possible level. The Secretary of State shall adopt regulations requiring each county to design and implement programs intended to identify qualified electors who are not registered voters, and to register such persons to vote. The Secretary of State shall adopt regulations prescribing minimum requirements for such programs. If the Secretary of State finds that a county has not designed and implemented a program meeting such prescribed minimum requirements, the Secretary of State shall design a program for such county and report the violation to the Attorney General.

305. The county clerk or his deputy shall accept affidavits of registration at all times except during the 28 days immediately preceding any election, when registration shall cease for that election as to electors residing in the territory within which the

election is to be held. Transfers of registration for an election may be made from one precinct to another precinct in the same county at any time when registration is in progress in the precinct to which the elector seeks to transfer.

306. The county clerk shall keep and maintain a current file listing all persons appointed or deputized by the county clerk to register voters, which file shall be open to public inspection. Such file shall include the party affiliation, if any, of each person listed.

307. Any person who is a registered voter qualifies for appointment as a deputy registrar of voters.

308. No county clerk may refuse to deputize any person to register voters because of race, creed, color, or national origin or ancestry.

309. A person may prove he is a citizen by his certification under penalty of perjury on the affidavit of registration.

310. Any elector absent from the county in which he claims residence may request a voter registration card from the county clerk of the county of residence. The county clerk shall furnish a voter registration card, to each elector requesting such card and showing that he will be temporarily absent from his home county. Upon receipt by the county clerk, the affidavit of registration shall be processed as required by this chapter.

311. The county clerk of any county in this state may receive the affidavit of registration of any elector who resides or claims residence in another county in this state. The affidavit shall be forwarded to the county clerk of the county in which the elector resides. The county clerk of the county in which the elector resides shall use the affidavit of registration from the other county as his permanent record.

Registration by this method shall be effective for all elections occurring 29 or more days after receipt of the affidavit of registration by the county clerk or his deputy to which the affidavit is mailed or delivered by the elector.

311.5. Whenever a voter, between the time of that person's last registration and the time for the closing of registration for any given election in the same county, has lawfully changed his or her surname, the voter may reregister under the new or changed name. The voter shall make an additional statement at the time of reregistration, giving the name under which he or she was last registered in that county.

This additional statement shall be given in the prior registration portion of the affidavit of registration before the affidavit is signed, and shall be deemed a part of such affidavit. Upon reregistration, the last previous registration of the voter shall be canceled.

312. If a voter reregisters or transfers his or her registration from one precinct to another, the former address shall be entered in the prior registration portion of the affidavit, and the former registration shall thereupon be canceled.

313. No person shall register in one county when his registration in another remains uncanceled unless he complies with this section.

Any person who is registered in one county may, if otherwise legally qualified, register in another county in which he then resides, at any time before the closing of registration for any election, if in the prior registration portion of the affidavit of registration he enters his former address.

The county clerk shall at once notify the county clerk of the county in which the old registration is still uncanceled that the voter has reregistered. Upon receipt of such notice of reregistration, the former registration shall be canceled immediately.

315. If the county clerk receives a letter from a voter stating that such voter has moved to a new address within the county, the clerk shall immediately send to such voter a voter registration card, and shall instruct such voter that in order to record a change of address, such voter must reregister on a new affidavit of registration.

The clerk shall cancel the old registration for any election occurring at least 29 days after the receipt of such letter.

316. If the county clerk receives a letter from a voter stating that such voter has moved to a new address in another county in the state, the clerk shall immediately notify the clerk of the county to which the voter has moved. Upon receipt of such notice, the clerk of the county to which the voter has moved shall send to such voter a voter registration card, and shall instruct such voter that in order to record a change of address, such voter must reregister on a new affidavit of registration. The clerk shall cancel the old registration for any election occurring at least 29 days after the receipt of such letter.

317. If a sample ballot or other notice of election sent to voters is returned by the post office to the county clerk or other officer charged with the duty of conducting an election because of the removal of the voter from the address to which it was sent, and the county clerk or other officer determines that the voter has moved to a new address in the county, the county clerk or other officer, following the election for which the sample ballot or other notice was sent out, may send a notice to the voter by means of a double postcard. One of the postcards shall inform the voter of the return of the sample ballot or election notice, and shall state that the records on file in the office of the county clerk indicate that the voter is still registered from his old address and that his affidavit of registration has been placed in a suspension file.

The other postcard, which shall be prepared and preaddressed by the clerk with postage paid by the clerk, shall contain blanks wherein the voter may notify the clerk whether his change of address is temporary or permanent and wherein he may sign the postcard. Upon receipt of the postcard, indicating that the change of address is permanent, if the signature on the postcard is the same as appears on the affidavit of registration the clerk shall write on front or the back of the voter's affidavit the new address. If the postcard is not returned to the clerk within 30 days after the date of mailing, the voter's registration shall be removed from the suspension file and canceled.

318. No fees may be charged for registration or certificates of registration.

319. The county clerk may cause to be written or printed upon the top margin, or in the body of the affidavit, in addition to any matter provided for in this code, any words necessary or convenient to designate the precinct, district or political subdivision for which the affidavit is taken, or to indicate any removal or transfer of registration. Any other reasonable memoranda may be added which is necessary or convenient to enable the county clerk to perform his duties in assorting or classifying or handling affidavits with correctness and dispatch, however, such memoranda shall not include notations, whether coded or not, which indicate that the registrant has signed a particular initiative, referendum, or recall petition unless such notations are made other than on the body of the affidavit of registration. Any memoranda, notations, devices, computer data, or other means or material employed by the clerk indicating which petition or petitions have been signed by any registrant shall be destroyed as soon as practicable after the certification of the results of the election for which such memoranda, notations, devices, computer data, or other means or material was used, or if no election is held, as soon as practicable after the clerk's final certification showing the results of the examination of the petition; but in no event shall such memoranda, notations, devices, computer data, or other means or material be retained for more than 30 days.

Such memoranda, notations, devices, computer data, or other means or material employed by the clerk indicating which petition or petitions have been signed by any registrant shall be available for the use of the clerk and his staff only and then only for the purposes for which they were prepared. Except as previously provided, they shall not be made available to any person or entity, public or private, for any purpose whatsoever.

Memoranda added to the body of the affidavit of registration, which are not applicable to the requirements of Section 500, shall not be deemed a portion of the affidavit.

320. In accordance with Section 11 of the initiative act approved by a majority of the voters at the general election held on November 4, 1930 (Statutes of 1931, p. lxxxiii) and entitled "An act to amend Sections 1083a, 1094, 1095a, 1097, 1103, 1105, 1106, 1115, 1120, and to repeal Sections 1228 and 1229 of the Political Code, relating to registration of electors and conduct of elections," no amendment by the Legislature shall provide for a general biennial or other periodic reregistration of voters.

Article 2. Registration Procedures

400. The county clerk shall provide voter registration cards for use in registration by deputy registrars of voters. Such voter registration cards shall be bound into books or pads. The affidavits

included in such voter registration cards shall be numbered and shall have a stub attached as prescribed by Section 508.

Each affidavit and stub shall bear the same number. The numbering shall begin with one and continue in a sequence until all of the blanks provided are numbered. The numbering shall begin anew with each 1,000,000 affidavits of registration numbered pursuant to this section. Each set of numbers shall be designated alphabetically as a series, beginning with series A, following the first 1,000,000.

401. Each deputy county clerk or registration clerk shall receipt to the county clerk for all books or pads issued to him, specifying the numbers of the affidavits received by him. He shall be charged with them until he returns and files them.

402. When any elector is registered, his name, residence, residence telephone number if furnished, and precinct shall be entered on the stub attached to the original affidavit. If for any cause the affidavit is spoiled in the course of execution or a mistake is made, the affidavit shall not be destroyed, but the name of the elector for whom it was intended, with his residence and precinct, shall be entered on the stub as in other cases, and the stubs and affidavits each marked with the word "spoiled."

403. All deputies and registration clerks shall return all affidavits of registration and all books or pads in their possession containing stubs and spoiled or unused affidavit blanks on the 53rd day before an election, and may apply for new registration materials for use until the close of registration.

404. When the registration for any election is closed, all deputies or registration clerks shall immediately return all affidavits of registration and all books or pads in their possession containing stubs and spoiled or unused affidavit blanks.

405. Within five days after the close of registration, the county clerk shall report to the district attorney of the county, under oath, the names of his deputies or registration clerks, who have not complied with the provisions of this article.

406. If the county clerk deems a duplicate file of voter registration cards to be necessary for administrative purposes, the county clerk may prepare, upon the receipt in his office of each original affidavit of registration, a reproduction thereof in compliance with the following conditions:

(a) The affidavit is photographed, microphotographed or reproduced in a manner approved for permanent records by the National Bureau of Standards;

(b) The device used to reproduce such affidavit is one which accurately reproduces the original thereof in all details;

(c) The photographs, microphotographs, or other reproductions are placed in conveniently accessible files and provision is made for preserving, examining and using the same.

Wherever in this code the term duplicate affidavit is used it shall be deemed to include the reproduced affidavit authorized by this section.

02606 293495 516

Any signature comparison required by this code may be made against these duplicates.

407. If the county clerk refuses to register any qualified elector in the county, the elector may proceed by action in the superior court to compel his registration. In an action under this section, as many persons may join as plaintiffs as have causes of action.

408. Costs shall not be recovered against the county clerk in any action under this chapter, unless it is alleged in the complaint, and established on the trial, that the county clerk knowingly and willfully violated his duty.

Article 3. Forms

500. 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 512, 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 512, 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 the 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 512, 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 give 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.

501. At the time of registering and of transferring registration, each elector may declare the name of the political party with which he intends to affiliate at the ensuing primary election. The name of that political party shall be stated in the affidavit of registration and the index.

The voter registration card shall inform the affiant that any elector may decline to state his political affiliation, but no person shall be entitled to vote the ballot of any political party at any primary election unless he has stated the name of the party with which he intends to affiliate. The voter registration card shall include a listing of all qualified political parties.

No person shall be permitted to vote the ballot of any party or for any delegates to the convention of any party other than the party designated in his registration, except as provided by Section 502.

502. Whenever any voter has declined to designate or has changed his political affiliation prior to the close of registration for an election, he may either so designate or have a change recorded by executing a new affidavit of registration and completing the prior registration portion of the affidavit.

503. (a) In every case the affidavit of registration shall show all the facts required to be stated.

(b) If the affidavit does not contain all of the information required, but the telephone number of the affiant is legible, the county clerk shall telephone the affiant and attempt to collect the missing information.

(c) If the affidavit does not contain all of the information required, and the county clerk is not able to collect the missing information by telephone, but the mailing address of the affiant is legible, the county clerk shall inform the affiant of the reason for rejection and shall send to the affiant a new voter registration card.

(d) If a properly executed affidavit is received by the county clerk on or before the 29th day prior to an election, the clerk shall send to the affiant a voter notification by nonforwardable first-class mail with address correction requested. Such notification shall inform the voter that he is registered to vote in the forthcoming election, and that his name will appear on the index kept at the polls.

(e) If a properly executed affidavit is received by the county clerk after the 29th day prior to an election the clerk shall send to the affiant a voter notification by nonforwardable first-class mail, with address correction requested. Such notification shall inform the

voter that the registration will not be valid for the forthcoming election but will be valid for any election occurring at least 29 days after the date of receipt of the affidavit by the county clerk.

504. If a voter notification sent to a voter under the provisions of subdivisions (d) and (e) of Section 503 is returned by the postal authorities to the county clerk or other officer charged with the duty of conducting an election, and the postal authorities inform the county clerk or other officer that the voter has removed from the address to which the notification was sent, the county clerk shall cancel the affidavit of registration for any election occurring at least 29 days after the county clerk receives such information from the postal authorities.

505. The Secretary of State shall print, or cause to be printed, the blank forms of the voter notification prescribed by Section 503. The form of such voter notification shall be prescribed by regulations adopted by the Secretary of State. The Secretary of State shall supply such forms to the county clerk in quantities and at times requested by the county clerk.

506. Subject to the provisions of this chapter, the affidavit of registration shall be in a form prescribed by regulations adopted by the Secretary of State. Such affidavit shall:

(a) Contain the information prescribed in Section 500.

(b) Be sufficiently uniform among the separate counties to allow for the processing and use by one county of an affidavit completed in another county.

(c) Allow for the inclusion of informational language to meet the specific needs of that county, including but not limited to, the return address of the clerk in that county, and a phone number at which a voter can obtain elections information in that county.

(d) Be included on one portion of a multipart card, to be known as a voter registration card, the other portions of which shall include information sufficient to facilitate completion and mailing of the affidavit and to inform the voter that he should not consider himself registered until he receives a voter notification by return mail.

(e) Be returnable to the county clerk as a self-enclosed mailer with postage paid by the Secretary of State.

507. In addition to registration conducted by deputy registrars of voters, the county clerk shall, as follows:

(a) Provide voter registration cards for the registration of voters at his office and in sufficient number of locations throughout the county for the convenience of persons desiring to register, to the end that registration may be maintained at a high level.

(b) Provide voter registration cards in sufficient quantities to any citizens or organizations who wish to distribute such cards. Such citizens and organizations shall be permitted to distribute voter registration cards anywhere within the county.

(c) Mail a voter registration card immediately to any person who wishes to register to vote and requests a voter registration card.

508. Each affidavit of registration issued to a deputy county clerk

or registration clerk shall meet the requirements prescribed by Section 506, except that the voter registration card shall be modified, pursuant to regulations adopted by the Secretary of State, to reflect the use of a deputy registrar of voters in lieu of mail delivery. A stub, separated from the body of the voter registration card by a perforated line, shall be attached to each such affidavit. Upon the stub shall be printed the number of the affidavit and blanks for the following:

(a) The name, residence, political affiliation, and signature of the voter.

(b) The signature of the registration clerk or deputy registrar taking the registration.

(c) The date.

At the time of registering the voter, the registration clerk or deputy registrar shall fill in the blanks in the stub, and require the voter to sign the stub in the place provided. He shall then detach the stub and the informational portion of the voter registration card from the affidavit and hand the stub and information to the voter.

509. The Secretary of State shall print, or cause to be printed, the blank forms of the affidavits of registration and voter registration cards prescribed by this code. The Secretary of State shall bind and number, or cause to be bound and numbered, affidavits of registration and voter registration cards as required by this code. The Secretary of State shall supply such forms to the county clerk in quantities and at times as requested by the county clerk.

510. The Secretary of State shall pay all postage for the (a) mailing of the voter notification and the address correction service pursuant to Section 503, (b) return to the county clerk of the affidavits of registration pursuant to Section 506, (c) mailing of blank voter registration cards pursuant to subdivision (c) of Section 507, (d) any mailing of blank voter registration cards pursuant to programs adopted under the provisions of Section 304. All payments made pursuant to this section shall be made directly from funds appropriated to the Secretary of State for this purpose.

511. Affidavits of registration for the whole of each county shall be filed, as fast as the registration progresses, in any orderly arrangement as prescribed by the county clerk. If the affidavits are not filed alphabetically without regard to precinct, the county clerk shall, by electronic, electromechanical or other suitable means, provide, for general use in his office, a comprehensive, printed alphabetical index to the surnames of voters on all uncanceled affidavits for the whole of the county, whereby the affidavit of registration of any voter may be ascertained and produced. In the case of voters having the same surname, the classification of names appearing on the index shall extend to the given and, where necessary, the middle name or initial.

512. Upon the personal or written application of any person, the county clerk shall give him a certified copy of the entries upon the register relating to the applicant.

A certified copy of an uncanceled affidavit of registration is prima facie evidence that the person named in the entry is a voter of the county.

Article 4. The Index

600. At least once, and more often if he deems it necessary, within each two-year period commencing on the first day of January in each odd-numbered year, the county clerk shall have printed a complete index, by precinct, to the affidavits of registration current at the date of printing. The county clerk shall keep a copy of such index on file as a public record for a period of five years. The index shall contain the name, address, residence telephone number if furnished, and political affiliation of each voter, and also a ruled space to the left of each name, within which to write, in figures, the line number designating the position of the name of the voter on the roster of voters. The name shall include the given name and the middle name or initials, if any. At the affiant's option, the given name may be preceded by the designation "Miss," "Ms.," "Mrs." or "Mr." The index shall be printed in a size no smaller than eight-point roman type on eight-point body and shall be arranged in alphabetical order in accordance with the surnames of the voters. A space of not less than one-quarter inch or one line of printing shall be left between the names of voters beginning with one letter of the alphabet and those starting with the next letter of the alphabet. Supplements of the same content and style may be printed as need for them appears.

601. In addition to printing a complete index within and for each two-year period, as provided in Section 600, the county clerk may print and maintain one complete and continuing index, by precinct, to the affidavits of registration and keep the index current by supplements and deletions as provided in Sections 600 and 603, and by reprinting portions of the index by precinct, as the need appears, the reprinted portions to contain the same information concerning each voter and to be in the same style, spacing, and type of print as provided in Section 600.

602. The number of copies of the precinct index printed shall not be less than 40 and as many more as in the judgment of the county clerk may be necessary for the business of the office. In counties where the precinct index is printed by means of a punched card or other high-speed data-processing equipment, the number of copies of precinct indices so prepared shall be the number required to be furnished by law and as many more as in the judgment of the county clerk may be necessary for the business of the office.

603. The county clerk shall supply copies of the index and of supplements to the index, necessary to bring it up to date, for all elections to be held within the county. The county clerk shall also supply as many copies of the index and supplements, not to exceed four in number, as may be requested by the clerk of a city, school district or other body. The name of each voter whose affidavit of

registration has been canceled shall be lined out of the index and supplement. The county clerk may charge such an amount as will reimburse the county for the expense incurred in preparing and furnishing lined out indexes of registrations and supplements other than for those provided for by Sections 600 and 602.

In the case of a municipal election, an index provided pursuant to this section shall be supplied to the city clerk not less than 25 days prior to the day of the election for which it is provided. If the index does not contain the names of all people eligible to vote in the election, the county clerk shall supply a supplement to the index, including all voters who registered after the 54th day before the election, not less than seven days prior to the election for which it is provided.

604. Upon demand of any Member of the Legislature or of Congress or any candidate who is to be voted for in the county, or in a city therein, or in a political subdivision of either, or upon written demand of his campaign committee, or of any committee for or against any proposed ballot measure, or of any committee for or against any referendum or initiative measure for which legal publication has been made, the county clerk shall furnish to such Member of the Legislature or of Congress or to either the candidate or his campaign committee or to the ballot measure committee no more than two copies of the printed indexes of the registration for the primary and general elections in which such Member of the Legislature or of Congress may participate as a candidate, or for the election in which the candidate will participate, or the ballot measure will be voted upon, at a charge of fifty cents ($0.50) per thousand names. All moneys collected shall be deposited in the county treasury to the credit of the general fund.

605. Upon written demand of the chairman or vice chairman of a party state central committee or of the chairman of a party county central committee, the county clerk shall furnish to the committee, without charge therefor, no more than two copies of the printed indexes of registration for the primary and general elections or for any special election at which a partisan office is to be filled. The copies of the printed indexes of registration shall be furnished to the committee demanding the same not less than 25 days prior to the day of the primary, general, or special election for which they are provided. Upon written demand, the county clerk shall also furnish to the committee not less than seven days prior to the above-specified elections, two copies of the printed indexes of registration of voters who registered after the 54th day before the election, which shall be compiled and prepared by Assembly districts. In counties with a population of less than 5,000,000, the county clerk shall furnish to the committee, without charge therefor, no more than four copies of the printed index of registration for the primary and general elections.

606. The county clerk shall have bound together in one or more volumes a general index to the affidavits of registration, arranged

02606 293585 534

alphabetically by precincts, and shall keep at least one copy of the general index in his office for public reference.

607. If the county clerk uses data-processing equipment to store the information set forth in the affidavits of registration, he shall forward to the Secretary of State one copy of the data-processing tape file with the information. A clerk not using data-processing storage shall forward to the Secretary of State one copy of the index setting forth such information. Whether tape file or index they shall be sent at 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 data-processing 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.

608. If the county clerk maintains tabulating cards containing the information preserved pursuant to Section 710, or electronic data-processing tape containing such information, upon written demand and payment of a fee not exceeding the cost to the clerk for duplicating such information, and beginning the date on which the clerk begins to notify registrants pursuant to Section 706, the county clerk shall furnish to the state or county central committee of a party for all voters allowed to participate in the subsequent direct primary election or general election, a list of registrants notified pursuant to Section 706 for the preceding general election.

609. Before the day of any election held throughout the county, the county clerk shall deliver to the precinct board in each precinct three copies of the index to the affidavits of registration for that precinct, with canceled names lined out and with necessary

supplements to bring the index up to date. The index and supplements shall constitute the register to be used at the election.

610. The county clerk, immediately following the cancellation of affidavits of registration pursuant to Section 705, shall compile a current list showing the number of voters, by party affiliations, in each Assembly, senatorial, and congressional district located in whole or in part within the county and in each supervisorial district and city located within the county. The list shall be made available, upon request, to any elector residing within the county.

A copy of the list shall also be sent, within 10 days after its compilation, to the Secretary of State. The Secretary of State, on the basis of the lists transmitted to him by the county clerks, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each city, Assembly district, senatorial district, congressional district, and supervisorial district in the state. A copy of this list shall be made available, upon request, to any elector of this state.

611. 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 provide, upon request, not less than 30 days prior to each direct primary election and general election, one set of those cards or a copy of the tape to the county central committee of a party for all voters allowed to participate in the subsequent direct primary election or general election. The county clerk shall also furnish to the county central committee, not less than seven days prior to each direct primary election and general election, one set of those cards or a copy of the tape of those voters who registered after the 54th day before the election. The cards or tape shall be provided without charge, except that the county central committee shall provide a replacement for the tape.

In addition to those provided to county central committees, the county clerk shall provide, upon request, a set of cards or a copy of a tape to any candidate or committee specified in Section 604, provided such candidate or committee reimburses the county for whatever actual costs are involved in providing this service.

612. Notwithstanding anything contained in this article, in any county in which tabulating equipment is used to produce the indexes of registration, the indexes shall be furnished to persons, committees, and agencies as provided in this article by street addresses in numerical order, but such indexes may be maintained in alphabetical order. In the event such county contains precincts for which the majority of voters have no street addresses, the indexes for such precincts may be arranged and furnished for all purposes in alphabetical order in accordance with the surnames of voters.

02606 293615 540

Article 5. Cancellation and Preservation

700. The registration of a voter is permanent for all purposes during his life, unless and until the affidavit of registration is canceled by the county clerk for any of the causes specified in this article.

701. 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 706.

702. The county clerk shall preserve all uncanceled affidavits of registration.

The affidavits of registration shall constitute the register required to be kept by this chapter.

703. Whenever a voter transfers his registration from one precinct to another precinct in the same county, or reregisters in another precinct in the same county as shown by the new affidavit of registration, the county clerk shall immediately cancel the affidavit of registration from the precinct in which the voter was first registered, and shall remove the affidavit from the file of uncanceled affidavits.

Whenever a voter removes from one county to another county and registers in the latter county, the county clerk of the county in which he was first registered, upon being informed of his removal either by the voter personally or by receipt of a notice of reregistration under the provisions of Section 313, shall likewise cancel his registration and remove the affidavit of registration in that county.

Cancellation is made by writing or stamping on the affidavit of registration the word "canceled," the reason the affidavit was canceled, and the date of cancellation.

All canceled affidavits of registration shall be preserved by the county clerk as required in Section 710.

The county clerk in distributing to each precinct the three indexes of registration, as required by this chapter, shall cross out of those indexes the names of all voters whose affidavits of registration from the precinct have been canceled.

704. The local registrar of births and deaths shall notify the county clerk not later than the 15th day of each month of all deceased persons 18 years of age and over, whose deaths were registered with him during the preceding month. This notification shall include at least the name, sex, age, birthplace, place of residence, date and

place of death of each decedent.

705. 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 706.

(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 706.

The effective date of cancellation of registration shall be the 30th day following the date the notice is mailed to the voter.

706. 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.

707. The county clerk shall, in the first week of September in

each year, examine the records of the courts having jurisdiction in case of infamous crimes and the embezzlement or misappropriation of public money, and shall cancel the affidavits of registration of all voters who have been finally convicted of an infamous crime or of the embezzlement or misappropriation of public money.

As used in this section, "county clerk" does not include "registrar of voters."

708. The county clerk, on the basis of the records of courts in the county having jurisdiction of such offenses, shall furnish to the chief elections official of the county, before the first day of September of each year, a statement showing the names of all persons convicted of infamous crimes or of the embezzlement or misappropriation of public money during the year prior to that first day of September, whose convictions have become final. The elections official shall, during the first week of September in each year, cancel the affidavits of registration of such persons. The county clerk shall certify the statement under the seal of his office.

As used in this section, "county clerk" does not include "registrar of voters."

709. Any person may proceed by action in the superior court to compel the county clerk to cancel any registration made illegally or which should be canceled by reason of facts that have occurred subsequent to the registration. If the voter whose registration is sought to be canceled is not a party to the action, the court may order him to be made a party defendant.

The county clerk and as many persons against whom there are causes of action may be joined as defendants.

710. The county clerk shall preserve all canceled original affidavits of registration for a period of four years, after which they may be destroyed by that officer.

In lieu of preserving the canceled original affidavit of registration, the county clerk may, by filming or other suitable method, record the canceled affidavit and destroy the affidavit following the first general election after the date of cancellation.

CHAPTER 3. PENAL PROVISIONS

750. Every person who willfully causes, procures, or allows himself or any other person to be registered as a voter, knowing that he or that other person is not entitled to registration, is punishable by imprisonment in the state prison for not less than one nor more than three years.

751. Notwithstanding any other provision of law to the contrary, a violation of the provisions of Section 750 shall be deemed to have been committed upon delivery of the affidavit of registration to the clerk of the county in which the elector resides.

752. Any deputy clerk or registration clerk having charge of affidavits of registration is guilty of a misdemeanor who:

(a) Neglects or refuses to make all the entries provided for in

Article 2 (commencing with Section 400) of Chapter 2 of this division.

(b) Knowingly registers a nonexistent person.

(c) Knowingly registers a person under a false name or address.

(d) Knowingly registers a person who is ineligible to register.

(e) Fails or neglects to comply with any provision of Article 2 (commencing with Section 400) of Chapter 2 of this division.

753. The district attorney shall bring criminal prosecutions against those deputies or registration clerks who fail to comply with the provisions of Article 2 (commencing with Section 400) of Chapter 2 of this division.

754. Any person willfully swearing falsely to the affidavits required by Section 1103 is guilty of a misdemeanor.

755. Any person is guilty of a misdemeanor who willfully interferes with the prompt transfer of a completed affidavit of registration to the county clerk.

SEC. 12.5. Section 604.5 is added to the Elections Code, to read:

604.5. For purposes of Section 604, the term "candidate" includes any person who declares in writing, under penalty of perjury, that he or she is a candidate, naming the office.

SEC. 13. Section 312 is added to the Elections Code, to read:

312. Except as provided in Section 315, if an elector reregisters or transfers his registration from one precinct to another, the former address shall be entered in the prior registration portion of the affidavit, and the former registration shall thereupon be canceled.

SEC. 14. Section 315 is added to the Elections Code, to read:

315. In lieu of executing a new affidavit of registration for a change of address within the county the county clerk shall accept a notice or letter of the change of address signed by a voter as he is registered. County clerks shall provide a form or postage prepaid postcard notice which shall be substantially in the following form:

I, _____, hereby state, that I have moved
(Name as registered)
within _____ County and request that my affidavit of registration be corrected as follows:

Old address: _____
New address: _____

I understand that this notice is effective only for elections held 29 or more days from date of postmark on this card.

The undersigned hereby certifies under penalty of perjury that the information contained herein is correct to the best of my knowledge.

_____
(Sign as registered)

The county clerk shall accept such notifications postmarked not

less than 29 days before an election and shall change the address on the voter's affidavit of registration accordingly. Any requests for change of address postmarked less than 29 days prior to an election shall not be applicable to that election but shall apply to all subsequent elections.

SEC. 15. Section 317 is added to the Elections Code, to read:

317. If a sample ballot or other notice of election sent to voters is returned by the post office to the county clerk or other officer charged with the duty of conducting an election because of the removal of the voter from the address to which it was sent, and the county clerk or other officer determines that the voter has moved to a new address in the county, the county clerk or other officer, following the election for which the sample ballot or other notice was sent out, may send a notice to the voter by means of a double postcard. One of the postcards shall inform the voter of the return of the sample ballot or election notice, and shall state that the records on file in the office of the county clerk indicate that the voter is still registered from his old address and that his affidavit of registration has been placed in a suspension file.

The other postcard, which shall be prepared and preaddressed by the clerk with postage paid by the clerk, shall contain blanks wherein the voter may notify the clerk whether his change of address is temporary or permanent and wherein he may sign the postcard. Upon receipt of the postcard, indicating that the change of address is permanent, if the signature on the postcard is the same as appears on the affidavit of registration the clerk shall write on the front or the back of the voter's affidavit the new address, and transfer the affidavit to the proper precinct register. If the postcard is not returned to the clerk within 30 days after the date of mailing, the voter's registration shall be removed from the suspension file and canceled.

SEC. 16. Chapter 3 (commencing with Section 600) of Division 1 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is repealed.

SEC. 17. Section 703 is added to the Elections Code, to read:

703. Cancellation is made by writing or stamping on the affidavit of registration the word "canceled," the reason the affidavit was canceled, and the date of cancellation.

Whenever a voter transfers his registration from one precinct to another precinct in the same county, or reregisters in another precinct in the same county as shown by the new affidavit of registration, the county clerk shall immediately cancel the affidavit of registration from the precinct in which the voter was first registered, and shall remove the affidavit from the file of uncanceled affidavits.

Except as provided in Section 315, whenever a voter removes from one county to another county and registers in the latter county, the county clerk of the county in which he was first registered, upon being informed of his removal either by the voter personally or by

receipt of a notice of reregistration under the provisions of Section 313, shall likewise cancel his registration and remove the affidavit of registration in that county.

All canceled affidavits of registration shall be preserved by the county clerk as required in Section 710.

The county clerk in distributing to each precinct the three indexes of registration, as required by this chapter, shall cross out of those indexes the names of all voters whose affidavits of registration from the precinct have been canceled.

SEC. 18. Division 1.5 (commencing with Section 1000) is added to the Elections Code, to read:

DIVISION 1.5. ABSENTEE VOTING AND NEW RESIDENT VOTING

CHAPTER 1. APPLICATION AND VOTING PROCEDURES

1000. The following definitions shall govern this division:

(a) "Absent voter" means any voter casting a ballot in any way other than at the polling place.

(b) "Election official" means any county clerk, city clerk, registrar of voters, elections supervisor, or governing board having jurisdiction over elections.

(c) "Special absentee voter" means an elector who:

(1) Is a member of the armed forces of the United States or any auxiliary branch thereof;

(2) Is a citizen of the United States temporarily living outside of the territorial limits of the United States or the District of Columbia;

(3) Is serving on a merchant vessel documented under the laws of the United States; or

(4) Is a spouse or dependent of a member of the armed forces or any auxiliary branch thereof.

1001. This division shall be liberally construed in favor of the absent voter.

1002. Application for an absent voter's ballot shall be made in writing to the elections official having jurisdiction over the election between the 29th and the 7th day prior to the election. The application shall be signed by the applicant, shall show his place of residence, and shall make clear to the clerk the applicant's right to a ballot. Any applications received by the elections official prior to the 29th day shall be kept and processed during the application period.

1003. The absentee ballot shall be available to any registered voter who is unable to appear at his polling place for any one of the following reasons:

(a) Illness.

(b) Absence from the precinct on the day of the election.

(c) Physical handicap.

(d) Conflicting religious commitments.

(e) The voter resides more than 10 miles from his polling place.

The absentee ballot shall also be available to any registered voter who resides within a precinct which is wholly on federally owned or controlled land.

1004. The county elections official shall place a notice in any office within the county where applications are taken for federal passports or where military enlistments are received to inform potential special absentee voters of their right to an absent voter's ballot and where registration materials and application forms can be obtained.

1005. Whenever, on the 54th day before the election, there are 30 or less persons registered to vote in any precinct, the elections official may furnish each voter with an absentee ballot along with a statement that there will be no polling place for the election. If the election is to be held entirely by absentee ballot, the voter shall not be required to file an application for the absentee ballot and the ballot shall be sent as soon as the ballots are available.

No precinct shall be divided in order to conform to the provisions of this section.

1006. Any printed application, which is to be distributed to voters for requesting absent voter ballots, shall contain spaces for the following:

(a) The printed name and residence address of the voter as it appears on the affidavit of registration.

(b) The address to which the ballot is to be mailed.

(c) The voter's reason for requesting an absent voter's ballot.

(d) The voter's signature.

(e) The name and date of the election for which the request is to be made.

(f) The date the application must be received by the clerk.

1007. Upon receipt of any absentee ballot application which arrives within the proper time the elections official should determine if the signature and residence address on the ballot application appear to be the same as that on the original affidavit of registration. The official may make this signature check upon receiving the voted ballot, but the signature must be compared before the absent voter ballot is canvassed.

If the official deems the applicant entitled to an absent voter's ballot he shall deliver by mail or in person the appropriate ballot.

1008. The official shall deliver to each qualified applicant:

(a) The ballot for the precinct in which he resides. In primary elections this shall be the ballot for the party with which he is affiliated or, when appropriate, a nonpartisan ballot.

(b) All supplies necessary for the use and return of the ballot.

(c) No officer of this state may make any charge for services rendered to any voter under the provisions of this chapter.

1009. The identification envelope shall contain the following:

(a) A declaration, under penalty of perjury, stating that the voter resides within the precinct in which he is voting.

(b) The signature of the voter as it appears on his affidavit of registration written across the sealed flap of the envelope.

(c) The residence address of the voter as shown on the affidavit of registration.

(d) The date of signing.

(e) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

1009.5. Whenever the clerk is required to mail an absent voter's ballot to any elector and the address to which the ballot is to be mailed is a point outside the territorial limits of the United States, he shall mail the absent voter's ballot to the elector by airmail, and, if by any law of the United States official election ballots may be mailed without the payment of postage, he shall do so.

1010. Upon delivering or mailing an absent voter's ballot, the elections official shall enter on the application of the absent voter, or on the affidavit of registration, the type of ballot and the date of delivering or mailing. Before the election the elections official shall send to the inspector of each precinct in his county or city a list of the voters in that precinct applying for and receiving ballots under the provisions of this chapter.

1011. The official shall send a second absent voter ballot to any voter upon receipt of a statement under penalty of perjury that the voter has failed to receive, lost, or destroyed his original ballot.

The envelope in which the second ballot is enclosed shall have plainly stamped or printed on it a warning that voting twice constitutes a felony and that both ballots will be void.

The official shall keep a record of each absent voter ballot sent to and received from a voter and shall verify, prior to counting any duplicate ballot, that the voter has not attempted to vote twice.

1012. Absent voters who return to their home precincts on election day may vote only if they surrender their absent voter ballots to the inspector of the precinct board.

The precinct board shall return the unused absent voter's ballots to the elections official in an envelope designated for this purpose.

1013. After marking the ballot, the absent voter may return it to the official from whom it came by mail or in person, or may return it to any member of a precinct board at any polling place within the jurisdiction. The ballot must, however, be received by either the official or the precinct board before the close of the polls on election day.

The official shall establish procedures to insure the secrecy of any ballot returned to a precinct polling place.

1014. Any voter using an absentee ballot may, prior to the close of the polls on election day, vote the ballot at the office of the elections official. The voter shall vote the ballot in the presence of an officer of the official or in a voting booth, at the discretion of the official, but in no case is his vote to be observed. Where voting machines are used the official may provide one voting machine for each ballot type used within the jurisdiction.

1015. Upon receipt of the absentee ballot the elections official shall compare the signature on the envelope with that appearing on the affidavit of registration and, if they compare, deposit the ballot, still in the identification envelope, in a ballot container in his office. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot. If the ballot is rejected because the signatures do not compare, the envelope shall not be opened and the ballot shall not be counted. The cause of the rejection shall be written on the face of the identification envelope.

If the elections official has compared the signature of the voter's application with the affidavit pursuant to Section 1007, the application may be used rather than the affidavit to make the signature check required by this section.

No ballot shall be removed from its identification envelope until the time for processing. No ballot shall be rejected for cause after the envelope has been opened.

1016. All absentee ballots cast under the provisions of this division shall be received by the official from whom they were obtained or by the precinct board no later than the close of the polls on election day.

1017. After the close of the period for requesting absent voter ballots by mail any voter unable to go to the polls because of illness or disability resulting in his confinement in a hospital, sanatorium, nursing home, or place of residence, or any voter unable because of a physical handicap to go to his polling place or because of such handicap is unable to vote at his polling place due to existing architectural barriers at his polling place denying him physical access to the polling place, voting booth, or voting apparatus or machinery, or any voter unable to go to his polling place because of conditions resulting in his absence from the precinct on election day may request in a written statement, signed under penalty of perjury that a ballot be delivered to him; provided, however, that the above described conditions shall have occurred after the close of the application for absent voter ballots. This ballot shall be delivered by the elections official to any authorized representative of the voter who presents this written statement to the official.

Before delivering the ballot the official shall compare the signature on the request with the signature on the voter's affidavit of registration.

The voter shall mark the ballot, place it in the identification envelope, fill out and sign the envelope and return the ballot, through the authorized representative, to either the elections official or any polling place within the jurisdiction.

These ballots shall be processed and counted in the same manner as other absentee ballots.

1018. The official shall include with the sample ballot an application for an absent voter ballot.

1019. Each ballot which is delivered pursuant to this chapter shall

be accompanied by a ballot pamphlet of the kind the voter would have received at the address on his affidavit of registration. If a voter receives a ballot pamphlet pursuant to this section, it is not necessary to send another copy of that pamphlet to him.

CHAPTER 2. NEW RESIDENTS

1100. "New resident" means a person who meets all requirements of an elector of the State of California except that his or her residency was established subsequent to the 29th day prior to the election.

The new resident is eligible to vote for President and Vice President and for no other office.

1101. Registration for new residents shall be in progress beginning with the 28th day prior to an election and ending on the seventh day prior to election day.

This registration must be executed in the county elections office and the new resident shall vote a new resident's ballot in that office.

1101.5. The new residents' affidavits of registration shall be kept separate from the files of permanent affidavits of registration of voters, and they shall not be used in connection with the preparation of the index of voters prepared under Sections 600 and 601, until they are either canceled or become permanent pursuant to Section 1106.

1102. The Secretary of State shall have blank affidavits of registration prepared for new residents which shall contain the information required in Section 506. The affidavit shall be the same as the regular affidavit of registration except that it shall have a removable portion with the caption "new resident".

1103. The envelope into which a new resident is to place the ballot shall bear upon its face the name and official title of the county elections official and upon the other side a printed affidavit in substantially the following form:

State of California }
County of _____ } ss.

I, _____, do solemnly swear that I am a citizen of the United States, that on the day of the next election for federal offices shall be at least 18 years of age, a resident of this state prior to that election, and am a resident of the City or Town of _____, County of _____, State of California; I have not applied, nor do I intend to apply, for an absent voter's ballot from the state from which I have removed.

_____ _____
(Date of signing) (Signature)

_____
(Residence address)

1104. The new resident shall mark the ballot, place it in the

identification envelope, and fill out and sign the declaration printed on the identification envelope.

1105. The ballots of new residents shall be received and canvassed at the same time and under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with the provisions of this chapter.

1106. After completing the official canvass, but no later than 60 days before the next regular election, the county elections official shall send a forwardable notice to each voter registered as a "new resident." The notice shall be a double postcard in substantially the following form:

(Part 1)

You are now registered in _____ County as a "new resident" and under California law your registration must be canceled unless the second portion of this form is returned to the county elections office within 30 days. Failure to return this form by _____ means
(Date)
you must reregister before being allowed to vote. Upon receipt of this form by the county elections official your affidavit of registration will become permanent and you will be eligible to vote in any election held within your precinct.

_____
County clerk

_____
County

_____
Date

* * * * * * *

(Part 2)

DECLARATION OF RESIDENCY

I, _____ am a resident of the state, of the county, and of the
(Print name)
precinct. I reside at

_____
(Street address) (City)

_____
(County) (Zip code)

(this address must be within the county).

_____
Signature of voter

_____
Date

WARNING: This document is signed under penalty of perjury.

1107. Upon receipt of the signed declaration of residency the elections official shall compare the signature shown on the declaration with those shown on the "new resident" affidavit of registration. If it is the same, the elections official shall remove the part identifying the affidavit as that of a new resident, attach the declaration to the affidavit, make any necessary address change and file the affidavit in the manner prescribed by this code.

1108. The county elections official shall preserve the canceled affidavits of registration as required in Section 710.

1109. The county elections official shall keep open to public inspection a list showing the names and addresses of all persons who have voted as new residents. The list shall be preserved for a period of four years from the date of the election.

CHAPTER 3. SPECIAL ABSENTEE VOTERS

1200. When a special absentee voter, as defined in Section 1000 applies for an absent voter's ballot and the elections official determines that he is not registered to vote, the official shall send the affidavit of registration card with the ballot. The affidavit of registration must be completed by the voter and returned with the voted ballot or the ballot shall not be counted.

If the application has been made upon a federal form for absentee ballots the form shall be deemed an affidavit of registration and the applicant shall be considered registered for that election only.

If the applicant is not a resident of the county to which he has applied, the official receiving the application shall forward it immediately to the proper county.

1201. Upon timely receipt of the affidavit of registration and the voted absentee ballot, the elections official shall examine the affidavit to ascertain that it is properly executed in accordance with the provisions of this code and that the applicant is a qualified elector of the county. If the official is satisfied of these facts, the applicant shall be deemed a duly registered voter as of the date appearing on the affidavit to the same extent and with the same effect as though he had registered in proper time prior to the election.

1202. Applications for the ballots of special absentee voters shall be received, and the ballots shall be received and canvassed at the same time and under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with the provisions of this chapter.

1203. When an affidavit or registration is found to be insufficient both the affidavit and the voted ballot are to be rejected. The word "rejected" and the date shall be written across the face of the affidavit and across the front of the ballot envelope. The words "not registered" shall also be written across the identification envelope.

If it appears the applicant is entitled to register and vote in some other city or county, the elections official shall immediately transmit the affidavit and the ballot to the proper city or county. The affidavit

and ballot shall then be processed in accordance with this chapter.

1204. When the affidavit is received by an elections official, other than a county clerk, the elections official receiving it shall, after the election, transmit it to the county clerk who, if the affidavit is not subject to rejection, shall file the original. If an affidavit or registration is rejected, it shall be returned to the applicant with the reason for rejection endorsed on it, together with a new blank affidavit card.

1205. If any special absentee voter is released from service after the closing date of registration for an election and has returned to the county of his residence and is not a registered voter, he may apply in person to the elections official for permission to register. If the elector furnishes documentary proof of release from service after the closing date of registration for the election, the elections offical shall allow him to be registered and to vote in the election. On or before the day of election the elections official shall deliver to the precinct board a list of special absentee voters registered under the provisions of this section.

1206. If any special absentee voter to whom an absent voter's ballot has been mailed and which ballot has not been voted by him returns to the county in which he is registered on or before election day, he may apply to the elections official for permission to vote. The elections official shall require him to sign an authorization to cancel the absent voter's ballot previously issued when it is returned to the county official. The official shall then issue another absent ballot to the special absentee voter, to be voted in the clerk's office, or the clerk shall certify to the precinct board that the special absentee voter is eligible to vote in the precinct polling place of his residence upon complying with the other requirements of this code.

1206.3. If any special absentee voter returns to the county of his residence after the final day for making application for an absent voter ballot, he may appear before the clerk and make application for registration, absent voter ballot, or both. The clerk shall register the voter, if he is not registered, and deliver to him an absent voter ballot which may be voted in the clerk's office or voted outside the clerk's office on or before the close of the polls on the day of election and returned as are other absent voter ballots.

1206.5. If a registered special absentee voter is unable to appear at his polling place because of being recalled to service after the final day for making application for an absent voter's ballot, but before 5 o'clock p.m. on the day before the day of election, he may appear before the clerk and make application for an absent voter's ballot. The clerk shall deliver to him an absent voter's ballot which may be voted in the clerk's office or voted outside the clerk's office on or before the close of the polls on the day of election and returned as are other absent voter's ballots.

1207. Whenever by any statute of the United States, provision is made for absentee voting, an application for an absent voter's ballot made under the provisions of that law may be given the same effect

as an application for an absent voter's ballot made under this code.

If, by any federal statute, provision is made for the transmission of applications for absent voter's ballots to the Secretary of State, he shall transmit the applications to the county clerk of the county in which the applicant claims residence.

1208. If by any act of Congress which is now or may become effective during the effective period of this section, provision is made for voting by special absent voter, that act shall control and be superior to any conflicting provisions of this code, and all state, county, municipal and district officers, who are charged with the performance of duties with reference to the election laws of this state, shall perform the duties and discharge the obligations placed upon them by that act of Congress. It is the purpose and intent of this section that full effect shall be given to ballots cast by special absentee voter under federal statutes in order that no person shall be deprived of his vote by virtue of having cast his ballot under any federal statute rather than under the laws of this state.

CHAPTER 5. CANVASS

1400. Any county having the necessary computer capability may start to process absent voter ballots on the fifth day prior to the election. This process may be completed to the point of putting the information on computer tape, but under no circumstances, is a vote count to be made until 8 p.m. on the day of the election. All other elections officials shall start to process absent voter ballots at 5 p.m. on the day before the election.

Results of any absent voter tabulation or count are not to be released prior to the close of the polls on the day of the election.

1401. The official shall appoint a special counting board or boards in such numbers as he deems adequate to count the absent voter ballots. The official shall provide for the forms of tally books and the distribution of the duties of the members of the canvassing board.

When the tally is done by hand there shall be no less than four persons for each office or proposition to be counted. One shall read from the ballot, the second shall keep watch for any error or improper vote, and the other two shall keep the tally.

1402. The elections official shall pay a reasonable compensation to each member of the canvassing board of absent voter ballots. This compensation shall be paid out of the treasury of the agency conducting the election as other claims against it are paid.

1403. Except as otherwise provided, the processing and counting of absent voter ballots and the disposition of challenges of absent voter ballots shall be according to the laws now in force pertaining to the election for which they are cast. Since the voter is not present, the challenger shall have the burden of establishing extraordinary proof of the validity of the challenge at the time the challenge is made.

1404. The count of absent voter ballots shall be open to the public.

02606 294185 582

1405. The board shall announce audibly the voter's name, whereupon a challenge may be made against the counting or deposit of the absent voter ballot. Challenges may be made for the same reasons as those made against a voter voting at a polling place. In addition a challenge may be entered on the grounds that the ballot was not received within the time provided by this code.

1407. 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.

1408. 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.

1409. Except as otherwise provided in this chapter the counting and canvassing of absentee ballots shall be conducted in the same manner and under the same regulations as used for ballots cast in a precinct polling place.

1409.5. Reports to the Secretary of State of the findings of the canvass of absent voter ballots shall be made by the clerk pursuant to Chapter 7 (commencing with Section 17070) and Chapter 8 (commencing with Section 17080) of Division 10.

1410. The elections official shall keep an accurate list of all voters who have received and voted an absent voter ballot at each election and compare this list with the roster of voters as provided in Section 705.

1411. When elections are consolidated pursuant to the provisions of Division 12 (commencing with Section 22000), and only one form of ballot is used at the consolidated election, the ballots cast by absent voters shall be counted only in connection with elections to which absent voter privileges have been extended by law.

Whenever the period of time within which absent voters' ballots must be received by the clerk in order to be counted, as for any election by this code or any other law of this state, is different from that period of time provided for another election, and the elections are consolidated and only one form of ballot used for both elections, all absent voters' ballots issued for the consolidated election may be counted for both elections if received by the clerk within whichever period of time that is the longer.

SEC. 19. Section 6403 of the Elections Code is repealed.

SEC. 20. Section 10015 of the Elections Code is repealed.

SEC. 21. Section 10015 is added to the Elections Code, to read:

10015. Any voter may seek a writ of mandate alleging that an error or omission has occurred or is about to occur in the placing of any name on, or in the printing of, a ballot, sample ballot, voter pamphlet or other official matter, or that any neglect of duty has occurred or is about to occur.

A peremptory writ of mandate shall issue only upon proof that the error, omission or neglect is in violation of this code or the

Constitution and that issuance of the writ will not substantially interfere with the conduct of the election.

Such action or appeal shall have priority over all other civil matters.

SEC. 22. Section 10205 of the Elections Code is amended to read:

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 candidates, is a vote for all of the electors of that party, but for no other candidates."

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."

SEC. 23. Section 10218 of the Elections Code is amended to read:

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 in which they qualify.

(c) Other legislative measures in the order in which they are approved by the Legislature.

(d) Initiative measures in the order in which they qualify.

(e) Referendum measures in the order in which they qualify.

SEC. 25. Chapter 4 (commencing with Section 14600) of Division 9 of the Elections Code is repealed.

SEC. 26. Chapter 5 (commencing with Section 14800) of Division 9 of the Elections Code is repealed.

SEC. 28. Chapter 5 (commencing with Section 29510) is added to Division 15 of the Elections Code, to read:

CHAPTER 5. ABSENT VOTING

29510. 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 Division 1.5 (commencing with Section 1000), is guilty of a felony, punishable by imprisonment for not less than one nor more than five years.

29511. Any person attempting to vote an absent voter's ballot by fraudulently signing the name of a regularly qualified voter is guilty of forgery.

29512. Any public official who knowingly violates any of the provisions of Division 1.5 (commencing with Section 1000), 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 Division 1.5 (commencing with Section 1000) 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. 28.5. Section 604.5 as proposed to be added to the Elections Code by Section 12.5 of this bill shall become operative only if Senate Bill No. 631 of the 1975–76 Regular Session of the Legislature is also chaptered and amends Section 454 of the Elections Code.

28.6. Sections 317, 705, and 706, as proposed to be added to the Elections Code by Section 12 of this bill shall not become operative if Senate Bill 1654 is enacted at the 1975–76 Regular Session.

28.7. Article 2 (commencing with Section 200) of Chapter 1 of Division 1, as proposed to be added to the Elections Code by Section 12 of this bill shall not become operative if Senate Bill 1653 is enacted at the 1975–76 Regular Session.

SEC. 29. Chapter 3 (commencing with Section 750) of Division 1, as proposed to be added to the Elections Code by Section 12 of this bill, shall not become operative if Assembly Bill No. 3683 of the 1975–76 Regular Session of the Legislature is also chaptered and A.B. 3683 adds Division 15 (commencing with Section 29100) to the Elections Code.

SEC. 30. Sections 312, 315, 317, and 703, as proposed to be added

to the Elections Code by Sections 13, 14, 15, and 17, respectively, of this bill, incorporate substantive changes proposed to be made by Assembly Bill No. 3011 of the 1975–76 Regular Session of the Legislature to Sections 216, 224, 225, and 381 of the Elections Code. Therefore, if A.B. 3011 is also chaptered, amending Sections 216, 224, 225, and 381 of the Elections Code, Sections 13, 14, 15, and 17 of this bill, adding Sections 312, 315, 317, and 703 to the Elections Code shall become operative, and, in which case, Sections 312, 315, 317, and 703, as proposed to be added to the Elections Code, in the forms set forth in Section 12 of this bill shall not become operative.

SEC. 31. Section 28 of this bill shall not become operative if Assembly Bill No. 3683 of the 1975–76 Regular Session of the Legislature is also chaptered and Assembly Bill No. 3683 adds Division 15 (commencing with Section 29100) to the Elections Code.

CHAPTER 1276

An act to add Section 5950.1 to the Harbors and Navigation Code, relating to harbor improvement districts.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 5950.1 is added to the Harbors and Navigation Code, to read:

5950.1. The term "inland parks and recreation areas," as used in this chapter, includes, but is not limited to, open-space land, as defined by the provisions of subdivision (b) of Section 65560 of the Government Code, except that such term shall not include open-space land, as defined in paragraph (2) of such subdivision.

The provisions of Section 5900.4 shall not apply to the acquisition of forest lands, rangeland, or agricultural lands when the acquisition is for the purpose of establishing hiking, bicycling, or equestrian trails or where the lands are being acquired for their scenic or aesthetic values.

CHAPTER 1277

An act to amend Section 1144 of the Probate Code and Section 8012 of the Welfare and Institutions Code, relating to public administrators.

[Approved by Governor September 27, 1976 Filed with Secretary of State September 28, 1976]

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

SECTION 1. Section 1144 of the Probate Code is amended to read:

1144. No fee shall be charged by the clerk of the court or the public administrator or his attorney for filing the application provided for in Section 1143, nor for the performance of any duty or service connected therewith. Such sales may be made with or without notice, as the public administrator may elect, and title to the property sold shall pass without the need of confirmation by the court. The public administrator shall file with the clerk of the court a statement showing the property of the decedent that came into his hands and the disposition that he made thereof, if any, together with vouchers for all expenditures. Any money or other property remaining in the hands of the public administrator shall be delivered to the legatees under the decedent's last will and testament, if any, and in the absence of a will to the next of kin, and, if none, shall, upon petition of the public administrator, be distributed by the court to the State of California.

Upon rendition of a court order distributing money or other property to the State of California under the provisions of this section, the public administrator shall forthwith transmit to the State Treasurer or State Controller all money or other property distributed to the State of California, subject to the provisions of Article 1 of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

SEC. 2. Section 8012 of the Welfare and Institutions Code is amended to read:

8012. The public guardian upon the death of his ward or upon the death of his conservatee may pay in full or in part from any assets of such ward or conservatee which are under his control the unpaid expenses of his ward's or conservatee's burial and last illness. When it appears that the total market value of the estate of the decedent does not exceed the amount set forth in subdivision (a) of Section 1143 of the Probate Code, the public guardian may apply to a judge of the superior court for an order permitting him to sell any personal property belonging to the decedent, to withdraw any money of the decedent on deposit with any bank or other commercial savings institution, and to collect any debt or claim that may be owing to the decedent. If the order is granted, any person or institution shall be entitled to pay or deliver money or property to the public guardian. The money received from any such sale or collection shall be used to pay the burial expenses of the decedent and the expenses of his last illness. Application for such an order may be filed whether or not there is a will of the decedent in existence if the will does not appoint an executor or if the named executor refuses to act. No notice of the application need be given. After the payment of such expenses the public guardian may transfer any remaining assets in accordance with and subject to the provisions of Section 630 of the Probate Code.

03096 294300 605

The value of the property for the purpose of ascertaining the right to transfer under said section shall be determined after deduction of said expenses paid.

CHAPTER 1278

An act to amend Sections 3503, 3504, and 3517 of, and to add Section 3515.1 to, the Elections Code, relating to initiatives.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 3503 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended to read:

3503. Upon receipt of a draft of a petition, the Attorney General shall prepare a summary of the chief purposes and points of the proposed measure. The summary shall be prepared in the manner provided for the preparation of ballot titles in Article 5 (commencing at Section 3530) of this chapter, the provisions of which in regard to the preparation, filing, and settlement of titles and summaries are hereby made applicable to the summary. The Attorney General shall provide a copy of the title and summary to the Secretary of State within 15 days after receipt of the final version of a proposed initiative measure, or if a fiscal estimate or opinion is to be included, within 15 days after receipt of the fiscal estimate or opinion prepared by the Department of Finance and the Joint Legislative Budget Committee pursuant to Section 3504.

If during the 15-day period, the proponents of the proposed initiative measure submit amendments, other than technical, nonsubstantive amendments, to the final version of such measure, the Attorney General shall provide a copy of the title and summary to the Secretary of State within 15 days after receipt of such amendments.

The proponents of any initiative measure shall, at the time of submitting the draft of the measure to the Attorney General, pay a fee of two hundred dollars ($200), the fee to be placed in a trust fund in the office of the State Treasurer to be refunded to the proponents if, within two years from the date the summary is furnished to the proponents, the measure qualifies for the ballot. If the measure does not qualify within that period, the fee shall be immediately paid into the General Fund of the state.

SEC. 2. Section 3504 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended to read:

3504. Notwithstanding the provisions of Section 3503, the Attorney General, in preparing a title or summary for an initiative measure, shall determine whether the substance thereof if adopted

would affect the revenues or expenditures of the state or local government, and if he determines that it would, he shall include in the title either the estimate of the amount of any increase or decrease in revenues or costs to the state or local government, or an opinion as to whether or not a substantial net change in state or local finances would result, if the proposed initiative is adopted.

The estimates as required by this section shall be made jointly by the Department of Finance and Joint Legislative Budget Committee, who shall deliver them to the Attorney General so that he may include them in the titles prepared by him.

The estimate shall be delivered to the Attorney General within 25 days from the date of receipt of the final version of the proposed initiative from the Attorney General, unless in the opinion of both the Department of Finance and the Joint Legislative Budget Committee a reasonable estimate of the net impact of the proposed initiative cannot be prepared within the 25-day period. In the latter case, the Department of Finance and the Joint Legislative Budget Committee shall, within the 25-day period, give the Attorney General their opinion as to whether or not a substantial net change in state or local finances would result if the proposed initiative is adopted.

Any statement of fiscal impact prepared by the Legislative Analyst pursuant to subdivision (b) of Section 12172 of the Government Code may be used by the Department of Finance and the Joint Legislative Budget Committee in the preparation of the fiscal estimate or the opinion.

SEC. 3. Section 3515.1 is added to the Elections Code, to read:

3515.1. The Secretary of State shall prepare and provide to any person upon request a pamphlet which describes the procedures and requirements for preparing and circulating a statewide initiative measure and for filing sections of the petition, and which describes the procedure used in determining and verifying the number of qualified voters who have signed the petition.

SEC. 4. Section 3517 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended to read:

3517. Any qualified registered voter may circulate an initiative, referendum, or recall petition anywhere within the state. Each section of the petition shall bear the name of a county or city and county, and only qualified registered voters of that county or city and county shall sign such section.

Any circulator may sign the section he or she is circulating as provided in Section 53.

SEC. 5. Section 3517 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended to read:

3517. Any qualified registered voter may circulate an initiative or referendum petition anywhere within the state. Each section of the petition shall bear the name of a county or city or county, and only qualified registered voters of that county or city and county shall sign such section.

Any circulator may sign the section he or she is circulating as provided in Section 53.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 3467 are both chaptered and become effective January 1, 1977, both bills amend Section 3517 of the Elections Code, and this bill is chaptered after Assembly Bill No. 3467, that the amendments to Section 3517 proposed by both bills be given effect and incorporated in Section 3517 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. 3467 are both chaptered and become effective January 1, 1977, both amend Section 3517, and this bill is chaptered after Assembly Bill No. 3467, in which case Section 4 of this act shall not become operative.

CHAPTER 1279

An act to add Article 1.5 (commencing with Section 865) to Chapter 7 of Division 1 of, Article 5 (commencing with Section 6600) to Chapter 7 of Part 1 of Division 2 of, Chapter 5.5 (commencing with Section 15300) to Division 5 of, and Chapter 4.5 (commencing with Section 18330) and Chapter 8.5 (commencing with Section 18999.1) to Division 7 of, the Financial Code, relating to financial institutions.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Article 1.5 (commencing with Section 865) is added to Chapter 7 of Division 1 of the Financial Code, to read:

Article 1.5. Disclosure of Consumer Bank Account Charges

865. As used in this article:

(a) "Account" means a demand, savings, or time deposit, as defined in regulations promulgated pursuant to Sections 371b and 1828 of the United States Code, respectively, which is established by one or more natural persons, or an unincorporated association of natural persons, pursuant to which the depositor may from time to time make deposits and effect withdrawals and as to which the address shown on the records of the bank is within the United States or its territories.

(b) "Depositor" means a person who is identified on the signature card for an account, or in the absence of a signature card, a person who has an interest in an account which is reflected on the records of the bank for that account to whom statements of account or other notices are normally given, or the agent of such person.

(c) "Charges" means those charges which a bank may, from time

to time, impose on an account in the normal course of business in the operation of the account, and does not include: (1) Charges which may be imposed for extraordinary services furnished at the specific request of the depositor;

(2) Charges or amounts required to be disclosed to the depositor pursuant to the Truth-in-Lending Act (15 U.S.C. 1601, et seq.) and Regulation Z (12 C.F.R. 226.1, et seq.), as amended;

(3) Charges which may be imposed in connection with the printing of checks ordered by the depositor; and

(4) Charges which may be imposed on the account but which are actually asserted by another bank pursuant to the Commercial Code in the course of presentment, payment or collection of an item.

865.2. A bank shall maintain a current written schedule or schedules containing: (1) the amount or, if no amount can be stated, the method of determining the amount of each charge which the bank may impose on an account; (2) the rate of interest, the annual yield, and the method that will be used in computing and paying interest on the account, if any, including any provision for nonpayment of interest on deposits made after the beginning of the interest payment period or withdrawn before the end of such period; and (3) the effective date thereof. The schedule or schedules shall be available for inspection by the public at each branch office in California at which such accounts are maintained and written materials setting forth the information contained in such schedule shall be displayed and be available to the public in an area of the bank which is open to the public. The schedule or schedules and written materials need not contain information relating to an account for an unincorporated association of natural persons.

865.4. (a) Except as hereafter provided, prior to the time of accepting the initial deposit into an account, a bank shall furnish a written statement or statements to the depositor, which the depositor may retain, setting forth the information described in Section 865.2.

If the depositor is not physically present at a branch office of the bank at the time the initial deposit is accepted and the written statement has not been furnished previously, the bank shall deliver the written statement to the depositor personally, or mail or deliver it to the depositor at the address shown on the records of the bank for that account, not later than 10 days after the date of the initial deposit.

(b) (1) Except as provided in subdivision (c), before any charge which has been disclosed in a statement furnished to a depositor is increased for that account, or any charge which has not been disclosed in a statement furnished to a depositor is imposed on that account, or any charge is imposed on an account if a statement has not been furnished as required by subdivision (a), the bank shall deliver to the depositor personally, or mail or deliver to the depositor at the address shown on the records of the bank for that account, a written statement or statements disclosing the increased charge or

new charge in the manner provided in subdivision (a), or the written statement or statements required by subdivision (a), not less than 15 days prior to the date on which the charge is to be increased or first imposed, unless such charge or change therein is required by law or regulation.

(2) Except as provided in subdivision (c), before a bank makes a change in the rate of interest or the method or frequency of computing or paying interest such that the annual yield will be less favorable to a depositor than under the previous rate, method, or frequency, the bank shall deliver to the depositor personally, or mail or deliver to the depositor at the address shown on the records of the bank for that account, a written statement or statements disclosing such change not less than 15 days prior to the effective date of such change, unless such change is required by law or regulation.

(c) With respect to an account established prior to July 1, 1977, unless previously furnished, a bank shall deliver to its depositors personally, or mail or deliver to its depositors at the address shown on the records of the bank for those accounts which are demand deposits, not later than July 1, 1977, and for those accounts which are savings and time deposits, not later than January 31, 1978, a current written statement or statements disclosing the information described in Section 865.2 which is in effect at that time.

(d) If there is more than one depositor with respect to an account, the bank need furnish the information required by this section to only one of them.

(e) An unincorporated association of natural persons may execute a written waiver of the requirements of this section when establishing an account which provides for specially negotiated arrangements with respect to the charges, interest rate, and method or frequency of computing and paying interest applicable to such account.

865.6. (a) A bank which imposes a charge or an increase thereof on an account in violation of Section 865.4 is liable to the depositor of that account in an amount equal to the sum of all charges or the increases therein imposed on that account in violation of that section.

(b) A bank which makes a change in the rate of interest or the method or frequency of computing or paying interest on an account that will be less favorable to a depositor in violation of Section 865.4 is liable to the depositor of that account in an amount equal to the interest that would have been earned pursuant to the previous rate, method, or frequency less the interest earned pursuant to the less favorable rate, method, or frequency.

(c) A bank shall not be liable for a violation of Section 865.4 if the bank shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, that the bank maintains reasonable procedures to avoid such error, and that such error was corrected by furnishing the written statement or statements in the manner provided in Section 865.4 within 60 days from the date on which the violation occurred, provided that the

bank credits to the depositor's account the amounts described in subdivisions (a) and (b) not later than 20 days from the date on which the violation was discovered.

(d) Notwithstanding any other provision of law but subject to the power of the court to transfer actions or proceedings under Title 4 (commencing with Section 392) of Part 2 of the Code of Civil Procedure, the proper court for the trial of an action under this article is the court in the county in which the branch office of the bank is located at which the account is maintained as to which a violation of this article is alleged to have occurred.

(e) Reasonable attorney's fees may be awarded by the court to the prevailing party in an action under this section which is brought by an aggrieved depositor.

(f) (1) An action to enforce a liability established by subdivision (a) shall be commenced within one year from the date on which the violation of Section 865.4 occurs.

(2) An action to enforce a liability established by subdivision (b) shall be commenced within one year from the date on which interest is first paid following the violation of Section 865.4.

(g) A bank shall not be liable for any failure to comply with the provisions of this article to the extent that any of such provisions are inconsistent with federal statutes or regulations.

(h) The remedies and defenses provided in this section are cumulative to, in addition to, and not exclusive of, any other remedies or defenses which a depositor or a bank may have in an action or proceeding arising out of the same facts but not brought pursuant to this article. If a bank complies with the provisions of subdivision (c), any duties imposed by this article shall not result in a cause of action which did not exist prior to the operative date of this article.

865.8. A bank shall inform a depositor of the applicable period for the escheat of the account to the state and the circumstances under which escheat may occur pursuant to subparagraph (a) of Section 1513 of the Code of Civil Procedure at the time of furnishing the written statement described in subdivision (a) of Section 865.4, and the information described in this section may be included in the written statement. The failure to provide information pursuant to this section shall not constitute a violation of Section 865.4.

865.10. This article shall become operative on July 1, 1977.

SEC. 2. Article 5 (commencing with Section 6600) is added to Chapter 7 of Part 1 of Division 2 of the Financial Code, to read:

Article 5. Disclosure of Savings and Loan Association Account Charges

6600. As used in this article:

(a) "Account" means withdrawable or repurchasable shares, investment certificates, deposits or savings accounts as defined in Section 561.11 of Title 12 of the Code of Federal Regulations, which

is established by one or more natural persons, or an unincorporated association of natural persons, pursuant to which the depositor may, from time to time, make deposits and effect withdrawals and as to which the address shown on the records of the association is within the United States or its territories.

(b) "Depositor" means a person who is identified on the signature card for an account, or in the absence of a signature card, a person who has an interest in an account which is reflected on the records of the association for that account to whom statements of account or other notices are normally given, or the agent of such person.

(c) "Charges" means those charges which an association may, from time to time, impose on an account in the normal course of business in the operation of the account and, does not include:

(1) Charges which may be imposed for extraordinary services furnished at the specific request of the depositor.

(2) Charges or amounts required to be disclosed to the depositor pursuant to the Truth-in-Lending Act (15 U.S.C. 1601, et seq.) and Regulation Z (12 C.F.R. 226.1, et seq.), as amended.

6601. An association shall maintain a current written schedule or schedules containing: (1) the amount or, if no amount can be stated, the method of determining the amount of each charge which the association may impose on an account; (2) the rate of interest, the annual yield, and method that will be used in computing and paying interest on the account, if any, including any provision for nonpayment of interest on deposits made after the beginning of the interest payment period or withdrawn before the end of such period; and (3) the effective date thereof. The schedule or schedules shall be available for inspection by the public at each branch office in California at which such accounts are maintained and written materials setting forth the information contained in such schedule shall be displayed and be available to the public in an area of the association which is open to the public. The schedule or schedules and written materials need not contain information relating to an account for an unincorporated association of natural persons.

6602. (a) Except as hereafter provided, prior to the time of accepting the initial deposit into an account, an association shall furnish a written statement or statements to the depositor, which the depositor may retain, setting forth the information described in Section 6601.

If the depositor is not physically present at a branch office of the association at the time the initial deposit is accepted and the written statement has not been furnished previously, the association shall deliver the written statement to the depositor personally, or mail or deliver it to the depositor at the address shown on the records of the association for that account, not later than 10 days after the date of the initial deposit.

(b) (1) Except as provided in subdivision (c), before any charge which has been disclosed in a statement furnished to a depositor is increased for that account, or any charge which has not been

disclosed in a statement furnished to a depositor is imposed on that account, or any charge is imposed on an account if a statement has not been furnished as required by subdivision (a), the association shall deliver to the depositor personally, or mail or deliver to the depositor at the address shown on the records of the association for that account, a written statement or statements disclosing the increased charge or new charge in the manner provided in subdivision (a), or the written statement or statements required by subdivision (a), not less than 15 days prior to the date on which the charge is to be increased or first imposed unless such charge or change therein is required by law or regulation.

(2) Except as provided in subdivision (c), before an association makes a change in the rate of interest or the method or frequency of computing or paying interest such that the annual yield will be less favorable to a depositor than under the previous rate, method, or frequency, the association shall deliver to the depositor personally, or mail or deliver to the depositor at the address shown on the records of the association for that account, a written statement or statements disclosing such change not less than 15 days prior to the effective date of such change, unless such change is required by law or regulation.

(c) With respect to an account established prior to July 1, 1977, unless previously furnished, an association shall deliver to its depositors personally, or mail or deliver to its depositors at the address shown on the records of the association not later than January 31, 1978, a current written statement or statements disclosing the information described in Section 6601 which is in effect at that time.

(d) If there is more than one depositor with respect to an account, the association need furnish the information required by this section to only one of them.

(e) An unincorporated association of natural persons may execute a written waiver of the requirements of this section when establishing an account which provides for specially negotiated arrangements with respect to the charges, interest rate, and method or frequency of computing and paying interest applicable to such account.

6603. (a) An association which imposes a charge or an increase thereof on an account in violation of Section 6602 is liable to the depositor of that account in an amount equal to the sum of all charges or the increases therein imposed on that account in violation of that section.

(b) An association which makes a change in the rate of interest or the method or frequency of computing or paying interest on an account that will be less favorable to a depositor in violation of Section 6602 is liable to the depositor of that account in an amount equal to the interest that would have been earned pursuant to the previous rate, method, or frequency less the interest earned pursuant to the less favorable rate, method, or frequency.

(c) An association shall not be liable for a violation of Section 6602 if the association shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, that the association maintains reasonable procedures to avoid such error, and that such error was corrected by furnishing the written statement or statements in the manner provided in Section 6602 within 60 days from the date on which the violation occurred, provided that the association credits to the depositor's account the amounts described in subdivisions (a) and (b) not later than 20 days from the date on which the violation was discovered.

(d) Notwithstanding any other provision of law but subject to the power of the court to transfer actions or proceedings under Title 4 (commencing with Section 392) of Part 2 of the Code of Civil Procedure, the proper court for the trial of an action under this article is the court in the county in which the branch office of the association is located at which the account is maintained as to which a violation of this article is alleged to have occurred.

(e) Reasonable attorney's fees may be awarded by the court to the prevailing party in an action under this section which is brought by an aggrieved depositor.

(f) (1) An action to enforce a liability established by subdivision (a) shall be commenced within one year from the date on which the violation of Section 6602 occurs.

(2) An action to enforce a liability established by subdivision (b) shall be commenced within one year from the date on which interest is first paid following the violation of Section 6602.

(g) An association shall not be liable for any failure to comply with the provisions of this article to the extent that any of such provisions are inconsistent with federal statutes or regulations.

(h) The remedies and defenses provided in this section are cumulative to, in addition to, and not exclusive of, any other remedies or defenses which a depositor or an association may have in an action or proceeding arising out of the same facts but not brought pursuant to this article. If an association complies with the provisions of subdivision (c), any duties imposed by this article shall not result in a cause of action which did not exist prior to the operative date of this article.

6604. Notwithstanding Section 5018, a violation of this article shall not constitute a public offense.

6605. An association shall inform a depositor of the applicable period for the escheat of the account to the state and the circumstances under which escheat may occur pursuant to subparagraph (a) of Section 1513 of the Code of Civil Procedure at the time of furnishing the written statement described in subdivision (a) of Section 6602, and the information described in this section may be included in the written statement. The failure to provide information pursuant to this section shall not constitute a violation of Section 6602.

6606. This article shall become operative on July 1, 1977.

SEC. 3. Chapter 5.5 (commencing with Section 15300) is added to Division 5 of the Financial Code, to read:

CHAPTER 5.5. DISCLOSURE OF CREDIT UNION ACCOUNT CHARGES

15300. As used in this chapter:

(a) "Account" means a withdrawable share account which is established by one or more natural persons, or an unincorporated association of natural persons, pursuant to which the depositor may from time to time make deposits and effect withdrawals and as to which the address shown on the records of the credit union is within the United States or its territories.

(b) "Depositor" means a person who is identified on the signature card for an account, or in the absence of a signature card, a person who has an interest in an account which is reflected on the records of the credit union for that account to whom statements of account or other notices are normally given, or the agent of such person.

(c) "Charges" means those charges which a credit union may, from time to time, impose on an account in the normal course of business in the operation of the account, and does not include:

(1) Charges which may be imposed for extraordinary services furnished at the specific request of the depositor.

(2) Charges or amounts required to be disclosed to the depositor pursuant to the Truth-in-Lending Act (15 U.S.C. 1601, et seq.) and Regulation Z (12 C.F.R. 226.1, et seq.), as amended.

15301. A credit union shall maintain a current written schedule or schedules containing: (1) the amount or, if no amount can be stated, the method of determining the amount of each charge which the credit union may impose on an account; (2) provisions in the bylaws relating to the frequency and conditions under which dividends will be paid; including any provision for nonpayment of dividends on deposits made after the beginning of the dividend payment period or withdrawn before the end of such period; and (3) the effective date thereof. The schedule or schedules shall be available for inspection by the credit union members or prospective members at each branch office in California at which such accounts are maintained and written materials setting forth the information contained in such schedule shall be displayed and be available to the credit union members or prospective members in an area of the credit union which is open to the credit union members or prospective members. The schedule or schedules and written materials need not contain information relating to an account for an unincorporated association of natural persons.

15302. (a) Except as hereafter provided, prior to the time of accepting the initial share deposit, a credit union shall furnish a written statement or statements to the depositor, which the depositor may retain, setting forth the information described in Section 15301.

If the depositor is not physically present at a branch office of the credit union at the time the initial deposit is accepted and the written statement has not been furnished previously, the credit union shall deliver the written statement to the depositor personally, or mail or deliver it to the depositor at the address shown on the records of the credit union for that account, not later than 10 days after the date of the initial deposit.

(b) Except as provided in subdivision (c), before any charge which has been disclosed in a statement furnished to a depositor is increased for that account, or any charge which has not been disclosed in a statement furnished to a depositor is imposed on that account, or any charge is imposed on an account if a statement has not been furnished as required by subdivision (a), the credit union shall deliver to the depositor personally, or mail or deliver to the depositor at the address shown on the records of the credit union for that account, a written statement or statements disclosing the increased charge or new charge in the manner provided in subdivision (a), or the written statement or statements required by subdivision (a), not less than 15 days prior to the date on which the charge is to be increased or first imposed unless such charge or change therein is required by law or regulation.

(c) With respect to an account established prior to July 1, 1977, unless previously furnished, a credit union shall deliver to its depositors personally, or mail or deliver to its depositors at the address shown on the records of the credit union not later than the date of the notice of the next succeeding meeting of members as set forth in the bylaws of the credit union pursuant to Section 14202 a current written statement or statements disclosing the information described in Section 15301 which is in effect at that time.

(d) If there is more than one depositor with respect to an account, the credit union need furnish the information required by this section to only one of them.

(e) An unincorporated association of natural persons may execute a written waiver of the requirements of this section when establishing an account which provides for specially negotiated arrangements with respect to the charges, interest rate, and method or frequency of computing and paying interest applicable to such account.

15303. (a) A credit union which imposes a charge or an increase thereof on an account in violation of Section 15302 is liable to the depositor of that account in an amount equal to the sum of all charges or the increases therein imposed on that account in violation of that section.

(b) A credit union shall not be liable for a violation of Section 15302 if the credit union shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, that the credit union maintains reasonable procedures to avoid such error, and that such error was corrected by furnishing the written statement or statements in the manner provided in Section

15302 within 60 days from the date on which the violation occurred, provided that the credit union credits to the depositor's account the amounts described in subdivision (a) not later than 20 days from the date on which the violation was discovered.

(c) Notwithstanding any other provision of law but subject to the power of the court to transfer actions or proceedings under Title 4 (commencing with Section 392) of Part 2 of the Code of Civil Procedure, the proper court for the trial of an action under this chapter is the court in the county in which the branch office of the credit union is located at which the account is maintained as to which a violation of this chapter is alleged to have occurred.

(d) Reasonable attorney's fees may be awarded by the court to the prevailing party in an action under this section which is brought by an aggrieved depositor.

(e) An action to enforce a liability established by subdivision (a) shall be commenced within one year from the date on which the violation of Section 15302 occurs.

(f) A credit union shall not be liable for any failure to comply with the provisions of this article to the extent that any of such provisions are inconsistent with federal statutes or regulations.

(g) The remedies and defenses provided in this section are cumulative to, in addition to, and not exclusive of, any other remedies or defenses which a depositor or a credit union may have in an action or proceeding arising out of the same facts but not brought pursuant to this article. If a credit union complies with the provisions of subdivision (c), any duties imposed by this chapter shall not result in a cause of action which did not exist prior to the operative date of this chapter.

15304. A credit union shall inform a depositor of the applicable period for the escheat of the account to the state and the circumstances under which escheat may occur pursuant to subparagraph (a) of Section 1513 of the Code of Civil Procedure at the time of furnishing the written statement described in subdivision (a) of Section 15302, and the information described in this section may be included in the written statement. The failure to provide information pursuant to this section shall not constitute a violation of Section 15302.

15305. This chapter shall become operative on July 1, 1977.

SEC. 4. Chapter 4.5 (commencing with Section 18330) is added to Division 7 of the Financial Code, to read:

CHAPTER 4.5. DISCLOSURE OF INDUSTRIAL LOAN COMPANY ACCOUNT CHARGES

18330. As used in this chapter:

(a) "Investment certificate" means a thrift obligation however evidenced, which is established by one or more natural persons, or an unincorporated association of natural persons, pursuant to which the investor may from time to time make additions and effect

withdrawals and as to which the address shown on the records of the industrial loan company is within the United States or its territories.

(b) "Investor" means a person who is identified on the signature card for an investment certificate, or in the absence of a signature card, a person who has an interest in an investment certificate which is reflected on the records of the industrial loan company for that investment certificate to whom statements of account for such certificates or other notices are normally given, or agent of such person.

(c) "Charges" means those charges which an industrial loan company may, from time to time, impose on an investment certificate in the normal course of business in the operation of the investment certificate, and does not include:

(1) Charges which may be imposed for extraordinary services furnished at the specific request of the investor.

(2) Charges or amounts required to be disclosed to the investor pursuant to the Truth-in-Lending Act (15 U.S.C. 1601, et seq.) and Regulation Z (12 C.F.R. 226.1, et seq.), as amended.

18331. An industrial loan company shall maintain a current written schedule or schedules containing: (1) the amount or, if no amount can be stated, the method of determining the amount of each charge which the company may impose on an investment certificate; (2) the rate of interest, the annual yield, and the method that will be used in computing and paying interest on the investment certificate, if any, including any provision for nonpayment of interest on investments made after the beginning of the interest payment period or withdrawn before the end of such period; and (3) the effective date thereof. The schedule or schedules shall be available for inspection by the public at each branch office in California at which such investment certificates are maintained and written materials setting forth the information contained in such schedule shall be displayed and be available to the public in an area of the company which is open to the public. The schedule or schedules and written materials need not contain information relating to an investment certificate for an unincorporated association of natural persons.

18332. (a) Except as hereafter provided, prior to the time of accepting the initial payment to purchase an investment certificate, a company shall furnish a written statement or statements to the investor, which the investor may retain, setting forth the information described in Section 18331.

If the investor is not physically present at a branch office of the company at the time the initial investment is accepted and the written statement has not been furnished previously, the industrial loan company shall deliver the written statement to the investor personally, or mail or deliver it to the investor at the address shown on the records of the company for that investment certificate, not later than 10 days after the date of the initial investment.

(b) (1) Except as provided in subdivision (c), before any charge

which has been disclosed in a statement furnished to an investor is increased for that investment certificate, or any charge which has not been disclosed in a statement furnished to an investor is imposed on that investment certificate, or any charge is imposed on an investment certificate if a statement has not been furnished as required by subdivision (a), the company shall deliver to the investor personally, or mail or deliver to the investor at the address shown on the records of the company for that investment certificate, a written statement or statements disclosing the increased charge or new charge in the manner provided in subdivision (a), or the written statement or statements required by subdivision (a), not less than 30 days prior to the date on which the charge is to be increased or first imposed, unless such charge or change therein is required by law or regulation.

(2) Except as provided in subdivision (c) and subject to the commissioner's authority contained in Section 18315, before a company makes a change in the rate of interest or the method or frequency of computing or paying interest such that the annual yield will be less favorable to an investor than under the previous rate, method, or frequency, the company shall deliver to the investor personally, or mail or deliver to the investor at the address shown on the records of the company for that investment certificate, a written statement or statements disclosing such change not less than 30 days prior to the effective date of such change, unless such change is required by law or regulation.

(c) With respect to an investment certificate established prior to July 1, 1977, unless previously furnished, a company shall deliver to its investors personally, or mail or deliver to its investors at the address shown on the records of the company not later than July 1, 1977, a current written statement or statements disclosing the information described in Section 18331 which is in effect at that time.

(d) If there is more than one investor with respect to an investment certificate, the company need furnish the information required by this section to only one of them.

(e) An unincorporated association of natural persons may execute a written waiver of the requirements of this section when establishing an investment certificate which provides for specially negotiated arrangements with respect to the charges, interest rate, and method or frequency of computing and paying interest applicable to such investment certificate.

18333. (a) A company which imposes a charge or an increase thereof on an investment certificate in violation of Section 18332 is liable to the investor of that investment certificate in an amount equal to the sum of all charges or the increases therein imposed on that investment certificate in violation of that section.

(b) A company which makes a change in the rate of interest or the method or frequency of computing or paying interest on an investment certificate that will be less favorable to an investor in violation of Section 18332 is liable to the investor in that investment

03426 294565 658

certificate in an amount equal to the interest that would have been earned pursuant to the previous rate, method, or frequency less the interest earned pursuant to the less favorable rate, method, or frequency.

(c) An industrial loan company shall not be liable for a violation of Section 18332 if the company shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, that the company maintains reasonable procedures to avoid such error, and that such error was corrected by furnishing the written statement or statements in the manner provided in Section 18332 within 60 days from the date on which the violation occurred, provided that the company credits to the investor's investment certificate the amounts described in subdivisions (a) and (b) not later than 20 days from the date on which the violation was discovered.

(d) Notwithstanding any other provision of law but subject to the power of the court to transfer actions or proceedings under Title 4 (commencing with Section 392) of Part 2 of the Code of Civil Procedure, the proper court for the trial of an action under this chapter is the court in the county in which the branch office of the company at which the investment certificate is maintained as to which a violation of this chapter is alleged to have occurred.

(e) Reasonable attorney's fees may be awarded by the court to the prevailing party in an action under this section which is brought by an aggrieved investor.

(f) (1) An action to enforce a liability established by subdivision (a) shall be commenced within one year from the date on which the violation of Section 18332 occurs.

(2) An action to enforce a liability established by subdivision (b) shall be commenced within one year from the date on which interest is first paid following the violation of Section 18332.

(g) The remedies and defenses provided in this section are cumulative to, in addition to, and not exclusive of, any other remedies or defenses which a investor or an industrial loan company may have in an action or proceeding arising out of the same facts but not brought pursuant to this article. If a company complies with the provisions of subdivision (c), any duties imposed by this chapter shall not result in a cause of action which did not exist prior to the operative date of this chapter.

18334. Notwithstanding Section 18435, a violation of this chapter shall not constitute a misdemeanor.

18335. A company shall inform an investor of the applicable period for the escheat of the investment certificate to the state and the circumstances under which escheat may occur pursuant to the subparagraph (a) of Section 1513 of the Code of Civil Procedure at the time of furnishing the written statement described in subdivision (a) of Section 18332 and the information described in this section may be included in the written statement. The failure to provide information pursuant to this section shall not constitute a violation of Section 18332.

18336. This chapter shall become operative on July 1, 1977.

SEC. 5. Chapter 8.5 (commencing with Section 18999.1) is added to Division 7 of the Financial Code, to read:

CHAPTER 8.5. DISCLOSURE OF INDUSTRIAL LOAN COMPANY ACCOUNT CHARGES

18999.1. As used in this chapter:

(a) "Investment certificate" means a thrift obligation however evidenced, which is established by one or more natural persons, or an unincorporated association of natural persons, pursuant to which the investor may from time to time make additions and effect withdrawals and as to which the address shown on the records of the industrial loan company is within the United States or its territories.

(b) "Investor" means a person who is identified on the signature card for an investment certificate, or in the absence of a signature card, a person who has an interest in an investment certificate which is reflected on the records of the industrial loan company for that investment certificate to whom statements of account for such certificates or other notices are normally given, or agent of such person.

(c) "Charges" means those charges which an industrial loan company may, from time to time, impose on an investment certificate in the normal course of business in the operation of the investment certificate, and does not include:

(1) Charges which may be imposed for extraordinary services furnished at the specific request of the investor.

(2) Charges or amounts required to be disclosed to the investor pursuant to the Truth-in-Lending Act (15 U.S.C. 1601, et seq.) and Regulation Z (12 C.F.R. 226.1, et seq.), as amended.

18999.2. An industrial loan company shall maintain a current written schedule or schedules containing: (1) the amount or, if no amount can be stated, the method of determining the amount of each charge which the company may impose on an investment certificate; (2) the rate of interest, the annual yield, and the method that will be used in computing and paying interest on the investment certificate, if any, including any provision for nonpayment of interest on investments made after the beginning of the interest payment period or withdrawn before the end of such period; and (3) the effective date thereof. The schedule or schedules shall be available for inspection by the public at each branch office in California at which such investment certificates are maintained and written materials setting forth the information contained in such schedule shall be displayed and be available to the public in an area of the company which is open to the public. The schedule or schedules and written materials need not contain information relating to an investment certificate for an unincorporated association of natural persons.

18999.3. (a) Except as hereafter provided, prior to the time of accepting the initial payment to purchase an investment certificate, a company shall furnish a written statement or statements to the investor, which the investor may retain, setting forth the information described in Section 18999.2.

If the investor is not physically present at a branch office of the company at the time the initial investment is accepted and the written statement has not been furnished previously, the industrial loan company shall deliver the written statement to the investor personally, or mail or deliver it to the investor at the address shown on the records of the company for that investment certificate, not later than 10 days after the date of the initial investment.

(b) (1) Except as provided in subdivision (c), before any charge which has been disclosed in a statement furnished to an investor is increased for that investment certificate, or any charge which has not been disclosed in a statement furnished to an investor is imposed on that investment certificate, or any charge is imposed on an investment certificate if a statement has not been furnished as required by subdivision (a), the company shall deliver to the investor personally, or mail or deliver to the investor at the address shown on the records of the company for that investment certificate, a written statement or statements disclosing the increased charge or new charge in the manner provided in subdivision (a), or the written statement or statements required by subdivision (a), not less than 30 days prior to the date on which the charge is to be increased or first imposed, unless such charge or change therein is required by law or regulation.

(2) Except as provided in subdivision (c) and subject to the commissioner's authority contained in Section 18813, before a company makes a change in the rate of interest or the method or frequency of computing or paying interest such that the annual yield will be less favorable to an investor than under the previous rate, method, or frequency, the company shall deliver to the investor personally, or mail or deliver to the investor at the address shown on the records of the company for that investment certificate, a written statement or statements disclosing such change not less than 30 days prior to the effective date of such change, unless such change is required by law or regulation.

(c) With respect to an investment certificate established prior to July 1, 1977, unless previously furnished, a company shall deliver to its investors personally, or mail or deliver to its investors at the address shown on the records of the company not later than July 1, 1977, a current written statement or statements disclosing the information described in Section 18999.2 which is in effect at that time.

(d) If there is more than one investor with respect to an investment certificate, the company need furnish the information required by this section to only one of them.

(e) An unincorporated association of natural persons may execute

a written waiver of the requirements of this section when establishing an investment certificate which provides for specially negotiated arrangements with respect to the charges, interest rate, and method or frequency of computing and paying interest applicable to such investment certificate.

18999.4. (a) A company which imposes a charge or an increase thereof on an investment certificate in violation of Section 18999.3 is liable to the investor of that investment certificate in an amount equal to the sum of all charges or the increases therein imposed on that investment certificate in violation of that section.

(b) A company which makes a change in the rate of interest or the method or frequency of computing or paying interest on an investment certificate that will be less favorable to an investor in violation of Section 18999.3 is liable to the investor in that investment certificate in an amount equal to the interest that would have been earned pursuant to the previous rate, method, or frequency less the interest earned pursuant to the less favorable rate, method, or frequency.

(c) An industrial loan company shall not be liable for a violation of Section 18999.3 if the company shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, that the company maintains reasonable procedures to avoid such error, and that such error was corrected by furnishing the written statement or statements in the manner provided in Section 18999.3 within 60 days from the date on which the violation occurred, provided that the company credits to the investor's investment certificate the amounts described in subdivisions (a) and (b) not later than 20 days from the date on which the violation was discovered.

(d) Notwithstanding any other provision of law but subject to the power of the court to transfer actions or proceedings under Title 4 (commencing with Section 392) of Part 2 of the Code of Civil Procedure, the proper court for the trial of an action under this chapter is the court in the county in which the branch office of the company at which the investment certificate is maintained as to which a violation of this chapter is alleged to have occurred.

(e) Reasonable attorney's fees may be awarded by the court to the prevailing party in an action under this section which is brought by an aggrieved investor.

(f) (1) An action to enforce a liability established by subdivision (a) shall be commenced within one year from the date on which the violation of Section 18999.3 occurs.

(2) An action to enforce a liability established by subdivision (b) shall be commenced within one year from the date on which interest is first paid following the violation of Section 18999.3.

(g) The remedies and defenses provided in this section are cumulative to, in addition to, and not exclusive of, any other remedies or defenses which a investor or an industrial loan company may have in an action or proceeding arising out of the same facts but

not brought pursuant to this article. If a company complies with the provisions of subdivision (c), any duties imposed by this chapter shall not result in a cause of action which did not exist prior to the operative date of this chapter.

18999.5. Notwithstanding Section 18054, a violation of this chapter shall not constitute a misdemeanor.

18999.6. A company shall inform an investor of the applicable period for the escheat of the investment certificate to the state and the circumstances under which escheat may occur pursuant to the subparagraph (a) of Section 1513 of the Code of Civil Procedure at the time of furnishing the written statement described in subdivision (a) of Section 18999.3 and the information described in this section may be included in the written statement. The failure to provide information pursuant to this section shall not constitute a violation of Section 18999.3.

18999.7. This chapter shall become operative on July 1, 1977.

SEC. 6. It is the intent of the Legislature that if this bill and Senate Bill No. 1793 are both chaptered and become effective January 1, 1977, that Chapter 4.5 (commencing with Section 18330) of Division 7, as added by Section 4 of this act shall take effect, and Chapter 8.5 (commencing with Section 18999.1) of Division 7, as added by Section 5 of this act shall not take effect. Therefore Section 4 of this act shall only be operative if this bill and Senate Bill No. 1793 are both chaptered and become effective January 1, 1977, in which case Section 5 of this act shall not become operative.

CHAPTER 1280

An act to amend Section 6224.2 of the Public Resources Code, relating to state lands.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 6224.2 of the Public Resources Code is amended to read:

6224.2. (a) Except as otherwise provided in subdivision (b), 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.

(b) If the appropriation or conversion of any such mineral deposit was involuntary, or if the defendant in any action brought under this section had probable cause to believe that the land on which the appropriation or conversion was committed was his own or the land of the person in whose service or by whose direction such act was done, the measure of damages shall be the sum as would compensate for the actual damages.

(c) Damages awarded pursuant to this section shall be limited to those determined to have occurred within the five-year period immediately preceding the date of commencement of the action.

CHAPTER 1281

An act to repeal Section 349.4 of the Code of Civil Procedure, and to amend Section 13003 of, and to add Chapter 12 (commencing with Section 13215) to Division 11 of, the Public Resources Code, relating to public entities, and making an appropriation therefor.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 349.4 of the Code of Civil Procedure is repealed.

SEC. 2. Section 13003 of the Public Resources Code is amended to read:

13003. No additional districts shall be created or organized under this division after September 17, 1965, except in the Fallen Leaf Lake watershed within the Lake Tahoe watershed. The provisions of Section 13075 shall not apply in the Fallen Leaf Lake watershed within the Lake Tahoe watershed.

SEC. 3. Chapter 12 (commencing with Section 13215) is added to Division 11 of the Public Resources Code, to read:

CHAPTER 12. STANDBY CHARGES

13215. The district may fix by ordinance or resolution, on or before the first day of July in each calendar year, water or sewer standby or immediate availability charges. Each such charge shall not individually exceed twelve dollars ($12) per year for each acre of land, or eight dollars ($8) per year for each parcel of land of less than an acre within the district to which water or sewerage could be made available for any purpose by the district, whether the water or sewerage is actually used or not. The district board may establish schedules varying the charges depending upon factors such as the uses to which the land is put, the cost of supplying such services to

the land, and the amount of services used on the land. The district board may restrict the imposition of such charges to lands lying within one or more improvement districts within the district.

13216. The ordinance or resolution fixing standby or immediate availability charges shall be adopted only after adoption of a resolution setting forth the particular schedule of charges proposed to be established and after notice and hearing in the manner prescribed by Section 54354.5 of the Government Code.

13217. If any water or sewer standby or immediate availability charge remains unpaid on the first day of the month in which the board of supervisors of the county in which the district is located is required by law to levy the amount of taxes required for county purposes, a 6-percent penalty thereon shall accrue. The amount of the unpaid charges plus the penalty shall constitute a special assessment upon the land with respect to which the services, for which charges are unpaid, were available or in existence on a standby basis, and shall constitute a lien on that land. The assessment shall be collected at the same time and in the same manner as ad valorem taxes are collected and shall be subject to the same penalties and the same procedures upon sale in the case of delinquency as provided for such taxes. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to the assessment; except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for the value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the unpaid charges, and any penalty thereon, relating to such property shall be transferred to the unsecured roll for collection.

At least 15 days before the first day of the month in which the board of supervisors is required by law to levy the amount of taxes required for county purposes, the district board shall furnish in writing both to the board of supervisors and to the county auditor, a description of each parcel of land within the district upon which a standby or immediate availability charge or charges remains unpaid, together with a statement setting forth both the amount of the unpaid charge or charges and the amount of the penalty on each parcel of land.

SEC. 4. The inhabitants of the Fallen Leaf Lake watershed face unique problems in connection with installing, maintaining, and controlling use of water supply systems and sewage treatment methods and facilities that will not contaminate the Lake Tahoe region. The people of this region have made investigations and studies of their special problems. This special act is necessary to provide a responsible public entity to provide such services in this unique resort area. It is, therefore, hereby declared that a general law cannot be made applicable and that the enactment of this act as

a special law is necessary to resolve the special problems existing in the Fallen Leaf Lake watershed.

SEC. 5. 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 governmental entities by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1282

An act to amend Sections 9889.50, 9889.51, 9889.52, 9889.54, 9889.55, 9889.56, 9889.57, 9889.58, 9889.59, and 9889.61 of the Business and Professions Code, relating to air pollution, and making an appropriation therefor.

[Approved by Governor September 27, 1976 Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 9889.50 of the Business and Professions Code is amended to read:

9889.50. (a) The Legislature finds and declares that air pollution constitutes a significant detriment to public health and welfare; that emissions from motor vehicles are the major source of photochemical air pollution in the principal population centers of California; and that the South Coast Air Basin, as defined by the State Air Resources Board, is subjected to the most severe photochemical air pollution in the state.

(b) The Legislature further finds and declares that an effective system of periodic motor vehicle inspection and maintenance and consumer education will reduce the level of vehicular air pollution and provide motorists with objective maintenance information regarding their vehicles.

(c) The Legislature further finds and declares that the federal government has delegated to the several states the ultimate responsibility for periodic motor vehicle inspection and maintenance, and that federal funds from various sources are available for approved demonstration programs.

(d) It is, therefore, the intent and purpose of the Legislature, in enacting this chapter, to establish a demonstration program in Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, and Ventura Counties for the periodic inspection of motor vehicles.

SEC. 2. Section 9889.51 of the Business and Professions Code is amended to read:

9889.51. (a) The department shall, with the cooperation of the State Air Resources Board and the Department of the California

Highway Patrol, design and adopt a program for the mandatory periodic emission inspection of all motor vehicles registered in those portions of the Counties of Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, and Ventura that lie within the South Coast Air Basin, as described by regulation of the State Air Resources Board in Section 60104 of Title 17 of the California Administrative Code, as that section read on January 1, 1976, and of all motor vehicles owned by governmental entities and public utilities and registered elsewhere in the state but garaged in such portions of such counties, except that:

(1) The department shall exempt from the emission inspection portion of the program every motorcycle, as defined in Section 400 of the Vehicle Code, and every motor vehicle weighing over 6,001 pounds, until the department, in conjunction with the State Air Resources Board, determines that the inclusion of such vehicles is technologically and economically feasible.

(2) The department may, by regulation, exempt from the program classes of specialized motor vehicles which the department, in conjunction with the State Air Resources Board, determines would present prohibitive inspection problems.

The emission inspection of each motor vehicle shall include all of the following:

(1) A determination that all emission control equipment and devices required by state and federal law are installed and functioning correctly.

(2) A measurement of the vehicle's exhaust emissions as determined by tests adopted by the department. In adopting a test procedure, the department shall consider, among other things, the cost of performing the test, the time required to conduct the test, the reliability of the test to provide accurate measurements of various air pollutants, and the ability of the automotive industry to interpret the test data accurately.

(3) A determination as to whether the vehicle complies with the emission standards for that vehicle's class and model year as prescribed by the State Air Resources Board pursuant to Section 43010 of the Health and Safety Code.

(4) Where applicable, a written indication to the vehicle's owner of the probable cause of any malfunction or misadjustment responsible for the vehicle's failure to comply with such standards and of any maintenance or repairs recommended to correct such malfunction or misadjustment.

SEC. 3. Section 9889.52 of the Business and Professions Code is amended to read:

9889.52. (a) The department shall administer the inspection program adopted pursuant to Section 9889.51, and shall hire, train, and organize the staff necessary to effect this purpose.

(b) The department shall conduct a series of orientation or training seminars to familiarize automobile mechanics and owners of motor vehicles subject to the provisions of this chapter with

procedures and forms to be utilized in the inspection program and, in particular, with maintenance and repair procedures recommended by the department for performance on vehicles failing to pass inspections. Such seminars shall be conducted at locations in each of the counties subject to this chapter selected on the basis of convenience of participants' access. Any automotive mechanic employed by an automotive repair dealer registered pursuant to Section 9884, or by a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3, shall be required to attend an orientation or training seminar conducted by the department prior to performing the maintenance or repairs of a motor vehicle which were recommended by the department pursuant to Section 9889.51 to correct the malfunction or maladjustment responsible for the vehicle's failure of an inspection conducted pursuant to this chapter.

(c) The department shall acquire and construct such facilities as are necessary to establish inspection stations, except when the facilities are acquired and constructed by a public or private entity under contract with the state board pursuant to Section 9889.54. However, in the interests of expediency and economy, whenever practicable existing state installations, surplus state property, and leased property shall be utilized. A private entity operating any portion of the inspection program shall not have any financial interest in any automotive repair station located within the geographical area in which the program is being conducted.

(d) The department shall ascertain whether a sufficient number of qualified persons are available to perform the motor vehicle repairs and maintenance which may be recommended by the department pursuant to motor vehicle inspection program established pursuant to this chapter. Notwithstanding the schedule in Section 9889.55, the program shall be implemented until the department determines that there are enough qualified persons available to perform such repairs and maintenance.

(e) Notwithstanding any other provision of this section, the department shall authorize any owner of a fleet of 10 or more motor vehicles subject to this chapter, who so elects, to implement and conduct the inspections of his own vehicles required by this chapter, on his own premises utilizing his own facilities or personnel, or both, subject to the following conditions:

(1) The owner's inspection system shall conform, in the department's determination, with all provisions of Section 9889.51, and with all regulations adopted by the department pursuant thereto.

(2) The authorization shall be suspended or rescinded by the department whenever the department determines, on the basis of random spot checks of the owner's inspection system and fleet vehicles, that the system fails so to conform. Any owner authorized to conduct his own inspections under this subdivision shall be deemed to have consented to provide the department with

whatever access, information and other cooperation the department reasonably determines are necessary to facilitate the random spot checks required by this paragraph.

SEC. 4. Section 9889.54 of the Business and Professions Code is amended to read:

9889.54. Notwithstanding any other provision of this chapter, the department may contract with public or private entities to design, implement, or operate the inspection program adopted by the department pursuant to Section 9889.51.

SEC. 5. Section 9889.55 of the Business and Professions Code is amended to read:

9889.55. The provisions of this chapter shall take effect in accordance with the following schedule:

(a) The inspection program shall be designed by the department during 1974 and 1975 and adopted no later than September 30, 1975.

(b) The inspection program shall be implemented by the department during the period from 1975 to 1978, inclusive, and a series of trial inspections of motor vehicles conducted by the department in order to refine inspection standards and procedures adopted under the program shall be completed by no later than January 1, 1979. Such trial inspections shall be limited to the Counties of Orange, Riverside, and San Bernardino, or any portion of one or more of these counties as the department may specify, and to one or more classes of vehicles subject to the provisions of this chapter, for example, vehicles owned by governmental entities. The trial inspection program may include provision for voluntary maintenance or repair and reinspection of vehicles failing to pass initial inspections, undertaken at the owners' expense, and for mandatory maintenance or repair and reinspection of such vehicles, undertaken at the department's expense. Notwithstanding other provisions of this section and of Section 4602.1 of the Vehicle Code, the trial inspections shall not be enforced through renewal of registration of motor vehicles. The department may issue stickers which shall be affixed to vehicles in accordance with regulations of the department or the department may, in conjunction with other affected state agencies, prescribe by regulation other means of enforcement.

(c) Any motor vehicle subject to the provisions of this chapter shall be inspected by the department upon each transfer of registration subsequent to January 1, 1979.

(d) Upon authorization by statute, the state board, subsequent to January 1, 1981, shall inspect motor vehicles subject to this chapter upon each renewal of registration and, in the case of motor vehicles previously registered in another state, upon initial registration.

(e) Notwithstanding any other provision of this section, whenever transfer of registration, or initial or renewed registration of a motor vehicle subject to the provisions of this chapter occurs within 60 days of an inspection conducted pursuant to subdivision (c) or (d) of this section, the inspection otherwise required upon such transfer or

registration need not be conducted. The department may extend the 60-day period during which a motor vehicle need not be reinspected if the State Air Resources Board determines, from test data, that such a period will not result in a significant increase in vehicular emissions.

(f) Any motor vehicles subject to the provisions of this chapter owned by a governmental entity or public utility and not required by law to have its registration renewed, shall be inspected by the department annually in accordance with a schedule established by the department to correspond with the schedule for inspections upon renewal of registration of all other motor vehicles pursuant to this chapter.

(g) The consumer handbook prepared by the department pursuant to Section 9889.53 shall be distributed by the Department of Motor Vehicles to every owner of a motor vehicle subject to the provisions of this chapter at the same time such owner is notified of his first inspection requirement pursuant to subdivision (c) or (d) of this section.

(h) The orientation or training seminars conducted by the department pursuant to subdivision (b) of Section 9889.52, shall be conducted periodically on an ongoing basis commencing prior to the conducting of the first trial inspections by the department pursuant to subdivision (b) of this section.

SEC. 6. Section 9889.56 of the Business and Professions Code is amended to read:

9889.56. (a) The department shall issue a certificate of compliance for each motor vehicle subject to the provisions of this chapter which passes an inspection conducted by the department pursuant to subdivision (c) or (d) of Section 9889.55.

(b) The department shall also issue a certificate of compliance for each motor vehicle subject to the provisions of this chapter owned by any governmental entity or public utility which passes an inspection conducted by the department pursuant to subdivison (d) of Section 9889.55.

(c) The department shall issue a certificate of compliance for each motor vehicle subject to the provisions of this chapter which passes an inspection conducted by a fleet owner pursuant to subdivision (e) of Section 9889.52. Issuance of such a certificate shall be contingent upon the prior receipt and approval by the department of an affidavit from the fleet owner affirming that the vehicle has passed such an inspection.

(d) Any motor vehicle which fails to pass any required inspection may undergo maintenance or repair and be reinspected at the request of the owner. Such motor vehicle shall, however, be required to pass reinspection prior to its registration, except that the department may waive that requirement if the motor vehicle has been repaired or serviced by a licensed installer.

(e) Notwithstanding any other provision of law, the department shall waive the certificate of compliance requirements and shall issue

04161 295220 717

a certificate of waiver to fulfill the requirements set forth in Section 4602.1 of the Vehicle Code for a motor vehicle which fails reinspection and which has received a low-emission tuneup performed to specifications established by the department pursuant to Section 9889.60, and which is in need of further maintenance and repairs which the department determines, based upon the estimate of a licensed installer, will cost more than fifty dollars ($50). On and after July 1, 1977, the department may increase that amount to seventy-five dollars ($75), taking into consideration, among other things, the increase in the cost of living as reflected in the Consumer Price Index, as published by the United States Bureau of Labor Statistics.

SEC. 7. Section 9889.57 of the Business and Professions Code is amended to read:

9889.57. If a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3 performs the maintenance or repairs of a motor vehicle which were recommended by the department pursuant to Section 9889.51 to correct the malfunction or misadjustment responsible for the vehicle's having failed an inspection conducted pursuant to this chapter, the station shall furnish to the vehicle's owner, for submission to the department upon reinspection, a written statement indicating in detail what maintenance or repairs were performed and what charges were assessed, and guaranteeing that the maintenance or repairs recommended by the department were performed in accordance with specifications established by the department pursuant to Section 9889.60.

SEC. 8. Section 9889.58 of the Business and Professions Code is amended to read:

9889.58. The department shall compile and maintain records of maintenance and repairs performed pursuant to Section 9889.56 by automotive repair dealers registered pursuant to Section 9884 and by motor vehicle pollution control device installation and inspection stations licensed pursuant to Section 9888.3. Information maintained in such records shall include, for each such dealer and station, all of the following:

(a) The number of maintenance and repair operations performed on motor vehicles which failed to pass an inspection conducted by the department pursuant to the provisions of this chapter.

(b) The correlation between maintenance and repairs recommended by the department pursuant to subdivision (b) of Section 9889.51 and maintenance and repairs performed.

(c) The percentage of maintained and repaired vehicles which passed reinspection.

(d) The charges assessed for such maintenance and repairs.

(e) Any other information deemed essential by the department.

SEC. 9. Section 9889.59 of the Business and Professions Code is amended to read:

9889.59. (a) The department shall conduct ongoing cost-benefit

analyses and other evaluations of the inspection program, including, but not limited to, observed patterns of malfunctions in inspected motor vehicles' emissions control and quantifications of reductions in vehicular emission in the geographical area subject to the provisions of this chapter, and recommendations for legislation to improve the inspection program. The department shall deliver periodic written reports to the Legislature on such analyses and evaluations at least every 12 months commencing not later than July 1, 1978.

(b) The department shall study and submit recommendations to the Legislature no later than July 1, 1982, on whether the inspection program should be extended and, if so, to what extent to other areas of the state.

(c) The Legislature shall create a joint committee to receive and evaluate the reports and recommendations submitted by the department to the Legislature pursuant to this section. On the basis of such evaluation, the committee shall, from time to time, recommend to the Legislature supplementary legislation it deems advisable to facilitate motor vehicle emissions inspections.

SEC. 10. Section 9889.61 of the Business and Professions Code is amended to read:

9889.61. (a) The department shall, by no later than January 1, 1974, apply to the federal government for matching funds to carry out the inspection program established by this chapter.

(b) The department shall charge a fee for the inspection of motor vehicles conducted pursuant to Section 9889.55, except that the department may waive fees for the inspection of motor vehicles conducted pursuant to subdivision (b) of Section 9889.55. The revenues from such fees shall be deposited in the Vehicle Inspection Fund, which is hereby created, and are hereby continuously appropriated to the department to carry out its functions and duties specified in this chapter. The fees charged shall be sufficient to provide the state funds to match any federal grants awarded in response to application under subdivision (a), and to reimburse the Motor Vehicle Account in the Transportation Tax Fund for all appropriations made for the design, adoption, implementation, and operation of the inspection program established by this chapter.

(c) If the department determines that the collection of inspection fees at the time the motor vehicles are inspected is not safe or economical to the state, the the department may request the Department of Motor Vehicles to collect, and in such a case the Department of Motor Vehicles may collect, the fee at the time of registration of the motor vehicle. If the Department of Motor Vehicles collects the fees, it shall establish the necessary procedures for collecting the fees and shall deposit the fees, less its administrative cost in collecting the fees as determined by the Department of Finance, in the Vehicle Inspection Fund.

CHAPTER 1283

An act to amend Sections 855 and 7412 of the Financial Code, relating to financial institutions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 855 of the Financial Code is amended to read:

855. (a) No later than 10 days, and no sooner than 60 days prior to the maturity date of any time deposit described in subdivision (g), a bank shall notify the depositor, in writing, of the maturity date.

(b) The notification shall also inform the depositor of the length of time available to the depositor for affecting the status of the deposit after the maturity date.

(c) If no interest is paid beyond the maturity date, and after such date the deposit shall be considered a demand deposit, the depositor shall be so informed.

(d) If, pursuant to an agreement, the deposit after maturity again constitutes a time deposit, the depositor shall be informed of the rate of interest and new maturity date.

(e) It is the intent of the Legislature that banks not be precluded from supplying depositors with additional written notices of the maturity date.

(f) This section is not applicable to:

(1) Time deposits represented by instruments payable to bearer.

(2) Time deposits which contemplate subsequent deposits to the account having the same maturity date as the initial deposit, as to which the bank has agreed to pay the balance in the account to the depositor or to credit the balance to another account of the depositor which is not a time deposit on an annual or more frequent basis.

(3) Time deposits having a fixed-term maturity of not more than 90 days.

(g) For the purposes of this section, time deposit includes an account which consists of funds deposited to the credit of one or more natural persons or an association, organization, partnership, or corporation operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes;, and does not include accounts which consist of funds deposited to the credit of an association, organization, partnership, or corporation operated for profit.

SEC. 2. Section 7412 of the Financial Code is amended to read:

7412. (a) No later than 10 days, and no sooner than 60 days prior to the maturity date of any fixed-term savings account certificate, an association shall notify the depositor, in writing, of the maturity date.

(b) The notification shall also inform the depositor of the length of time available to the depositor for affecting the status of the deposit after the maturity date.

(c) If no interest is paid beyond the maturity date, the depositor shall be so informed.

(d) If, pursuant to an agreement, the fixed-term savings account certificate is renewed, the depositor shall be informed of the rate of interest and new maturity date.

(e) It is the intent of the Legislature that associations not be precluded from supplying depositors with additional written notices of the maturity date.

(f) This section is not applicable to:

(1) A fixed-term savings account certificate payable to bearer.

(2) A fixed-term savings account certificate which contemplates subsequent additions to the certificate amount having the same maturity date as the initial certificate, as to which the association has agreed to pay the balance of the certificate amount to the holder of the certificate on an annual or more frequent basis.

(3) A fixed-term saving account certificate having a fixed term of not more than ninety (90) days.

(g) For the purposes of this section, fixed-term savings account certificate includes a certificate which represents funds deposited to the credit of one or more natural persons, or an association, organization, partnership, or corporation operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes; and does not include certificates which represent funds deposited to the credit of an association, organization, partnership, or corporation operated for profit.

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:

Chapter 837 of the Statutes of 1975 imposes requirements on banks and savings and loan associations which in many instances are extremely difficult, and in other instances are impossible, to comply with. In order to accomplish the intended purposes of such act and remove unnecessary requirements at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 1284

An act to repeal and add Chapter 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of the Civil Code, to amend Sections 6282, 6292, and 6293 of, and to add Section 6277 to, the Revenue and Taxation Code, and to amend Sections 286, 4456, 4750.5, 5901, and 40000.7 of, and to add Sections 371, 372, 373, 508, 520, 5901.1, and 9262.5 to, and to add Chapter 3.5 (commencing with Section

11600) of Division 5 of, the Vehicle Code, relating to vehicle leasing, and making an appropriation therefor.

[Approved by Governor September 27, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Chapter 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of the Civil Code is repealed.

SEC. 2. Chapter 2d (commencing with Section 2985.7) is added to Title 14 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 2d. VEHICLE LEASING ACT

2985.7. (a) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code.

(b) "Lessor" includes "bailor" and is a person who is engaged in the business of leasing, offering to lease or arranging the lease of a motor vehicle under a lease contract.

For the purpose of this subdivision, "person" means an individual, partnership, corporation, estate, trust, cooperative, association or any other legal entity.

(c) "Lessee" includes "bailee" and is a natural person who leases, offers to lease or is offered the lease of a motor vehicle under a lease contract.

(d) "Lease contract" means any contract for or in contemplation of the lease or bailment for the use of a motor vehicle by a natural person for a term exceeding four months, primarily for personal, family or household purposes, whether or not it is agreed that the lessee bear the risk of the motor vehicle's depreciation. Lease contract does not include a lease for agricultural, business or commercial purposes, or to a government or governmental agency or instrumentality.

2985.71. (a) If any solicitation to enter into a lease contract includes a statement of the amount of any payment, the number of required payments, or that any or capitalized cost reduction or other payment is required at the inception of the lease, the solicitation shall also include all of the following:

(1) A statement that the transaction advertised is a lease.

(2) If the lessee is to bear the risk of the motor vehicle's depreciation, the value placed on the motor vehicle at the inception of the lease.

(3) The amount, if any, required by the lessor as a security deposit, advance periodic payment or other prepayment.

(4) The term of the lease expressed in months, and the total amount of periodic payments.

(5) If the lessee is to bear the risk of the motor vehicle's depreciation, the maximum for which the lessee could be held liable

at the end of the lease period.

(b) A failure to comply with the provisions of this section shall not affect the validity of the leasing contract. There is no liability on the part of any owner or personnel, as such, of any advertising medium for any violation of this section.

2985.8. Every lease contract shall be in writing and, if printed, shall be in type no smaller than six-point, and shall contain in a single document all of the agreements of the lessor and lessee with respect to the obligations of each party. The contract shall be signed by the lessor or his authorized representative and by the lessee or his authorized representative and an exact copy thereof shall be furnished the lessee by the lessor at the time the lessor and the lessee have signed the contract. No motor vehicle shall be delivered under this chapter until the lessor delivers to the lessee a fully executed copy of the contract. The lessor shall not obtain the signature of the lessee to a contract when it contains blank spaces to be filled in after it has been signed. Every contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

(a) A brief description of the motor vehicle, including the identification or license number if known, or both the identification and license number if both are known.

(b) If the lessee is to bear the risk of the motor vehicle's depreciation, the value placed on the motor vehicle at the inception of the lease.

(c) The amount of any prepayment made by the lessee at the inception of the lease, other than a security deposit or advance periodic payment, and the monetary value and brief description of any property accepted by the lessor in lieu of cash.

(d) The amount of any advance periodic payment or payments required after the inception of the lease and before the first periodic payment.

(e) The number, amount, and the due dates or period of payments under the lease contract, and the total amount of such periodic payments.

(f) If the lessee is to bear the risk of the motor vehicle's depreciation, the estimated residual value of the motor vehicle at the end of the lease term.

(g) The amount or the method of determining the amount of any liability to be imposed on the lessee at the expiration of the lease term.

(h) The amount of any security deposit received by the lessor as security for the performance of the lessee's obligations under the lease contract.

(i) The amount paid or to be paid for current year vehicle tax or license fees.

(j) A brief description of insurance provided or paid for by the lessor, including the type and amount of coverage and costs, or, if not provided or paid for by the lessor, the type and amount of coverage

04248 295320 737

required of the lessee.

(k) The description of, amount of or method of determining other charges payable by the lessee not included in the periodic payments.

(*l*) A statement identifying all express warranties and guarantees made by the manufacturer or lessor with respect to the leased property, and identifying the party responsible for maintaining or servicing the leased property together with a description of the responsibility.

(m) Any mileage limitation which will be utilized in determining a charge for excessive use or the estimated residual value of the motor vehicle, or both.

(n) A statement whether or not the lease contract contains an express option to purchase the vehicle at the end of or during the lease term and at what price.

(o) A statement of the conditions under which the lessee or lessor may terminate the lease prior to the end of the term and the amount or method of determining any penalty or other charge for delinquency, default or early termination.

(p) A statement that the lessee shall be liable for the difference between the estimated residual value of the motor vehicle and its realized value at the end of the term.

(q) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a lease contract under this chapter may be set forth in the manner required or permitted under federal law or regulation, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under federal law, as in effect at the time such disclosure is made.

(r) Any portion of the information required to be disclosed under this section may be given in the form of a reasonable estimate where the lessor is not in a position to know exact information.

2986.2. Every lease contract shall contain, in at least eight-point bold type, above the space provided for the lessee's signature and circumscribed by a line, the following warnings which shall be signed or initialed by the lessee:

(a) "Notice to the lessee: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in; (2) You are entitled to a completely filled in copy of this agreement; (3) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement." "s/s _____."
lessee

(b) "Warning—Unless a charge is included in this agreement for public liability or property damage insurance, payment for such coverage is not provided by this agreement." "s/s _____."
lessee

(c) "Lessee has the right to return the vehicle, and receive a

refund of any payments made if the credit application is not approved, unless nonapproval results from an incomplete application or from incorrect information provided by the lessee."

"s/s_____."
lessee

2986.3. No lease contract shall contain any provision by which:

(a) A power of attorney is given to confess judgment in this state, or an assignment of wages is given; provided that nothing herein contained shall prohibit the giving of an assignment of wages contained in a separate instrument pursuant to Section 300 of the Labor Code.

(b) The lessee waives any right of action against the lessor or holder of the contract or other person acting on his behalf for any illegal act committed in the collection of payments under the contract or in the repossession of the motor vehicle.

(c) The lessee relieves the lessor from liability for any legal remedies which the lessee may have against the lessor under the contract or any separate instruments executed in connection therewith.

(d) The lessor or holder of the contract is given the right to commence action on a contract under the provisions of this chapter in a county other than the county in which the contract was in fact signed by the lessee, the county in which the lessee resides at the commencement of the action, the county in which the lessee resided at the time the contract was entered into or in the county in which the motor vehicle purchased pursuant to such contract is permanently garaged.

2986.4. Any acknowledgment by the lessee of delivery of a copy of a lease contract or purchase order and any vehicle lease proposal and any credit statement which the lessor has required or requested the lessee to sign, and which he has signed, during the contract negotiations, shall be printed or written in size equal to at least 10-point bold type and, if contained in the contract, shall appear directly above the space reserved for the lessee's signature. The lessee's written acknowledgment, conforming to the requirements of this section, of delivery of a completely filled in copy of the contract, and a copy of such other documents shall be a rebuttable presumption of delivery in any action or proceeding by or against a third party without knowledge to the contrary when he acquired his interest in the contract. If such third party furnishes the lessee a copy of such documents, or a notice containing items set forth in subdivisions (a) to (*l*), inclusive, of Section 2985.8, and stating that the lessee shall notify such third party in writing within 30 days if he was not furnished a copy of such documents, and no such notification is given, it shall be conclusively presumed in favor of such a third party that copies of such documents were furnished as required by this chapter.

2986.5. (a) No person shall lease a used motor 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 the Vehicle Code. This subdivision does not apply to an extension or a subsequent lease of the same motor vehicle to the same lessee.

(b) If a lessee of a vehicle pays to the lessor an amount for the licensing or transfer of title of the vehicle which amount is in excess of the actual fees due for such licensing or transfer, or which amount is in excess of the amount which has been paid, prior to the sale, by the lessor to the state in order to avoid penalties that would have accrued because of late payment of such fees, the lessor shall return such excess amount to the lessee, whether or not such lessee requests the return of the excess amount.

2986.6. No agreement in connection with a lease contract which provides for the inclusion of title to or a lien upon any personal or real property, other than the motor vehicle which is the subject matter of the lease contract, or accessories therefor, or special and auxiliary equipment used in connection therewith, as security for the payment of the contract obligations, shall be enforceable. This section does not apply to a security deposit, advance payment of rent or other cash prepayment.

2986.10. (a) An assignee of the lessor's rights is subject to all equities and defenses of the lessee against the lessor, notwithstanding an agreement to the contrary, but the assignee's liability may not exceed the amount of the obligation owing to the assignee at the time of the assignment.

(b) The assignee shall have recourse against the lessor to the extent of any liability incurred by the assignee pursuant to this section regardless of whether the assignment was with or without recourse.

2986.12. It shall be unlawful for any lessor to induce or attempt to induce any person to enter into a contract subject to this chapter by offering a rebate, discount, commission or other consideration, on the condition that the lessee gives information or assistance for the purpose of enabling a lessor to either lease or sell a motor vehicle to another.

2986.13. Any payment made by a lessee to a lessor pending the execution of a lease contract shall be refunded to the lessee in the event the lease contract is not executed.

The provisions of this section shall not apply when a lessee leaves his motor vehicle with the lessor in lieu of or in addition to a cash payment, and the lessee and lessor, with knowledge and consent, agree that the parties shall enter into the lease contract, and lessee shall take delivery of the motor vehicle described in the lease contract from the lessor, at a date more than five days after the date the lessee leaves the motor vehicle with the lessor.

2988. (a) The Legislature finds that it is necessary to provide some protection for consumers who enter into lease contracts in which the lessee will bear the risk of the motor vehicle's depreciation. This section is intended to provide relief to the

consumer when an ostensibly inexpensive lease contract establishes an excessively low level of periodic payment which results, conversely, in an excessively high liability being imposed on the lessee at the expiration of the lease term because the lessor has failed to act in good faith in either estimating a residual value of the motor vehicle or establishing a level of periodic payment which bears no reasonable relation to the motor vehicle's reasonably expected depreciation during the lease term. Therefore, the lessor will have the obligation to act in good faith and to come forward with competent evidence showing that the estimated residual value was so determined given the circumstances existing at the inception of the lease contract.

(b) Where the lessee is to bear the risk of the motor vehicle's depreciation and the lessee's liability on expiration of a consumer lease is based on the estimated residual value of the motor vehicle such estimated residual value shall be a reasonable approximation of the anticipated actual fair market value of the motor vehicle on lease expiration. There shall be a rebuttable presumption that the estimated residual value is unreasonable to the extent that the estimated residual value exceeds the actual residual value by more than three times the average payment allocable to a monthly period under the lease. The presumption stated in the preceding sentence shall not apply to the extent the excess of estimated over actual residual value is due to physical damage to the motor vehicle beyond reasonable wear and use, or to excessive use, and the lease may set standards for such wear and use if such standards are not unreasonable.

(c) For the purposes of this chapter, "fair market value" means the value the motor vehicle would have when sold in a commercially reasonable manner in the customary market for such motor vehicle.

2988.5. (a) Except as otherwise provided by this section, any lessor who fails to comply with any requirement imposed under Section 2985.8 or 2988 for which no specific relief is provided with respect to any person shall be liable to such person in an amount equal to the sum of:

(1) Any actual damages sustained by such person as a result of the failure.

(2) In the case of an individual action, 25 percent of the total amount of monthly payments under the lease except that liability under this subparagraph shall not be less than one hundred dollars ($100) nor greater than one thousand dollars ($1,000); or in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not be more than the lesser of five hundred thousand dollars ($500,000) or 1 percent of the net worth of the lessor.

(3) The costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) In determining the amount of award in any class action, the

court shall consider, among other relevant factors, the amount of any actual damages sustained, the frequency and persistence of failure of compliance by the lessor, the resources of the lessor, the number of persons adversely affected, and the extent to which the lessor's failure of compliance was intentional.

(c) A lessor shall not be liable under this section if within 15 days after discovery of an error, and prior to the institution of an action under this section or the receipt of written notice of the error, the lessor notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to insure that the person will not be required to pay any amount in excess of the amount that should correctly have been disclosed.

(d) A lessor may not be held liable in any action brought under this section for a violation of this chapter if the lessor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

(e) Except as otherwise specifically provided in this chapter, any civil action for a violation of this chapter which may be brought against the original lessor in any lease transaction may be maintained against any subsequent assignee of the original lessor where the violation from which the alleged liability arose is apparent on the face of the instrument assigned unless the assignment is involuntary.

(f) A person may not take any action to offset any amount for which a lessor is potentially liable to such person under paragraph (2) of subdivision (a) against any amount owing to such lessor by such person, unless the amount of the lessor's liability to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party.

(g) No provision of this section imposing any liability shall apply to any act done or omitted in good faith conformity with any rule, regulation or interpretation of federal law, notwithstanding that after such act or omission has occurred, such rule, regulation or interpretation is amended, rescinded or determined by judicial or other authority to be invalid for any reason.

(h) The multiple failure to disclose any information required under this chapter to be disclosed in connection with a single lease transaction shall entitle the person to a single recovery under this section, but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries.

(i) Actions alleging a failure to disclose or otherwise comply with the requirements of this chapter shall be brought within one year of the termination of the lease contract.

2988.7. If the lessor fails to comply with Section 2985.8, as an alternative to an action under Section 2988.5, the lessee may rescind the contract if the failure to comply was willful, or if correction will increase the amount of the contract balance, unless the lessor waives the collection of the increased amount.

2988.9. Reasonable attorney's fees and costs shall be awarded to

the prevailing party in any action on a lease contract subject to the provisions of this chapter regardless of whether the action is instituted by the lessor, assignee or lessee. Where the defendant alleges in his answer that he tendered to the plaintiff the full amount to which he was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be prevailing party within the meaning of this action.

2989. No civil action shall be filed against a lessor under the authority of this chapter if a federal civil action has previously been filed based on facts that give rise to a similar cause of action under this chapter.

2989.2. (a) At the termination or expiration of a lease, when disposing of a vehicle or obtaining cash bids for the purpose of setting the fair market value of a vehicle, the lessor shall act in a commercially reasonable manner in the customary market for such vehicle.

(b) Any provision in a lease contract to the contrary notwithstanding, at least 10 days written notice of intent to sell such motor vehicle shall be given by the lessor to the lessee, unless the lessor and lessee have agreed in writing to the amount of the lessee's liability under the lease contract after the lessee returns the motor vehicle to the lessor, or the lessee has satisfied the lease contract obligations by payment to the lessor. The notice shall be personally served or shall be sent by certified mail, return receipt requested, directed to the address of the lessee shown on the contract, unless the lessee has notified the holder in writing of a different address. The notice shall set forth separately any charges or sums due and state that the lessee will be liable for the difference between the amount of liability imposed on the lessee at the expiration of the lease term and the actual cash value of the motor vehicle when it is sold. The notice shall also state that the lessee has the right to submit a cash bid for the purchase of the vehicle.

2989.4. (a) A lessor shall not:

(1) Fail to register the leased vehicle pursuant to the lease contract.

(2) Advertise any specific vehicle in the inventory of the lessor for lease without identifying such vehicle by either its vehicle identification number or license number.

(3) Refuse to lease a vehicle to any creditworthy person at the advertised total price, exclusive of sales tax, vehicle registration fees and finance charges.

(b) Notwithstanding Section 2988.5, a lessor shall not suffer civil liability for a violation of this section.

2989.5. (a) Except as provided in subdivision (c), a lessor shall make available to investigators of the Department of Motor Vehicles, upon presentation of an affidavit that the department has a consumer complaint within its jurisdiction, the records relevant to the transaction complained of. If the affidavit states that the

department has reasonable cause to believe there is a pattern of conduct or common scheme in similar transactions, the records relevant to all such similar transactions shall be made available.

(b) Except as provided in subdivision (c), on petition of the department alleging the receipt of a consumer complaint within its jurisdiction and alleging that the lessor refuses to make available his records as required, the court shall order the lessor to make available such records or show cause why such records should not be produced. The department shall be awarded reasonable attorney's fees and costs if it prevails in such action.

(c) (1) In the case of a financial institution, or a subsidiary or affiliated corporation of such institution, the Director of Motor Vehicles shall report in writing an apparent violation, or failure to comply with this chapter, evidenced by a consumer complaint, to the agency or department of the state or federal government responsible for supervising the leasing activities of such institution.

(2) Within 20 days, such agency or department shall advise the director of the action taken with respect to such report.

(3) If such agency or department fails to so advise the director, the director may commence an action to compel the agency or department to cause the production of the records relevant to the consumer complaint.

2989.6. The Director of Motor Vehicles may adopt and enforce rules and regulations as may be necessary to carry out or implement the provisions of this chapter.

Rules and regulations shall be adopted, amended or repealed in accordance with Chapter 4.5 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code.

2989.8. Any person who shall knowingly and willfully violate any provision of this chapter shall be guilty of a misdemeanor.

2990. This chapter shall not apply to any transaction which is regulated by Chapter 2b (commencing with Section 2981) of this title.

SEC. 2.2. Section 6277 is added to the Revenue and Taxation Code, to read:

6277. There shall be a presumption that a transfer of a vehicle to a lessee by a lessor, as defined in Section 372 of the Vehicle Code, was a sale for resale if the lessee transfers title and registration to a third party within 10 days from the date the lessee acquired title from the lessor at the expiration or termination of a lease. The presumption may be rebutted by evidence that the sale was not for resale prior to use.

It is the intent of the Legislature in enacting this section to recognize the delay in processing documents when a lessee wishes to transfer title of a leased vehicle to a third party at the expiration or termination of a lease rather than acquiring a vehicle for his or her own use.

This section does not provide an exemption for any use by a lessee after the expiration or termination of a lease.

SEC. 2.3. Section 6282 of the Revenue and Taxation Code is amended to read:

6282. There are exempted from the computation of the amount of the sales tax the gross receipts from sales of vehicles required to be registered under the Vehicle Code when the retailer is other than a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, dealer, dismantler, or lessor-retailer, subject to the provisions of Section 11615.5 of the Vehicle Code.

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

SEC. 2.4. Section 6292 of the Revenue and Taxation Code is amended to read:

6292. (a) Except when the sale is by lease, when a vehicle required to be registered under the Vehicle Code is sold at retail by other than a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, dealer, dismantler, or lessor-retailer, subject to the provisions of Section 11615.5 of the Vehicle Code, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle must pay the use tax to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 4750.5 of the Vehicle Code.

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

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

SEC. 2.5. Section 6293 of the Revenue and Taxation Code is amended to read:

6293. (a) Except when the sale is by lease, when a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code is sold at retail by other than a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, dealer, dismantler, or lessor-retailer, subject to the provisions of Section 11615.5 of the Vehicle Code, or a person required to hold a seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 of this part by reason of the number, scope, and character of his sales of such vehicles, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle shall pay the use tax to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 38211 of the Vehicle Code.

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

04248 295460 765

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

SEC. 3. Section 286 of the Vehicle Code is amended to read:

286. The term "dealer" does not include:

(a) Insurance companies, banks, finance companies, public officials, or any other person coming into possession of vehicles in the regular course of business, who shall sell such vehicles under a contractual right or obligation, or in performance of an official duty, or in authority of any court of law; provided, such sale is for the purpose of saving the seller from loss or pursuant to the authority of a court of competent jurisdiction.

(b) Persons who sell or distribute vehicles of a type subject to registration for a manufacturer to vehicle dealers licensed under this code, or who are employed by manufacturers or distributors to promote the sale of vehicles dealt in by such manufacturers or distributors; provided, however, that if any such persons also sell vehicles at retail, they shall be deemed to be vehicle dealers and are subject to this code.

(c) Persons regularly employed as salesmen by vehicle dealers licensed under this code while acting within the scope of such employment.

(d) Persons exclusively engaged in the bona fide business of exporting vehicles or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States; provided, no federal excise tax is legally payable on any of such transactions, or such tax is legally refundable on such transactions. Persons not exclusively engaged in the bona fide business of exporting vehicles but who are engaged in the business of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States shall be exempt from licensure as dealers only if their sales of such vehicles produces less than 10 percent of their total gross revenue from all business transacted.

(e) Persons not engaged in the purchase or sale of vehicles as a business, disposing of vehicles acquired for their own use, or for use in their business when the same shall have been so acquired and used in good faith, and not for the purpose of avoiding the provisions of this code.

(f) Persons who are engaged in a business activity which does not involve the purchase, sale or exchange of vehicles except incidentally in connection with the purchase, sale or exchange of vehicles of a type not subject to registration under this code, midget autos or racers advertised as being built exclusively for use by children, minibikes, tote goats, and vehicles of a similar nature which are not intended for use on the highways.

(g) Persons temporarily retained as auctioneers solely for the purpose of disposing of vehicle stock inventories on behalf of the owners thereof by means of public auctions at the location of such owners' place of business, or as otherwise approved by the

04248 295485 770

department, provided intermediate physical possession or control of, or an ownership interest in such inventory is not conveyed to the persons so retained.

(h) Persons who are engaged exclusively in the business of purchasing, selling, servicing, or exchanging racing vehicles, parts for racing vehicles, and trailers designed and intended by the manufacturer exclusively for carrying racing vehicles. For purposes of this subdivision, "racing vehicle" means a motor vehicle of a type used exclusively in a contest of speed or in a competitive trial of speed which is not intended for use on the highways.

(i) Any person who is a "lessor" as defined in Section 372.

(j) Any person who is a "renter" as defined in Section 508.

SEC. 4. Section 371 is added to the Vehicle Code, to read:

371. Lessee includes "bailee" and is a person who leases, offers to lease, or is offered the lease of a motor vehicle for a term exceeding four months.

SEC. 5. Section 372 is added to the Vehicle Code, to read:

372. A "lessor" is a person who, for a term exceeding four months, leases or offers for lease, negotiates or attempts to negotiate a lease, or induce any person to lease a motor vehicle; and who receives or expects to receive a commission, money, brokerage fees, profit or any other thing of value from the lessee of said vehicle. "Lessor" includes "bailor" and "lease" includes "bailment."

SEC. 6. Section 373 is added to the Vehicle Code, to read:

373. A "lessor-retailer" is a lessor or renter who, except under the circumstances described in subdivision (a) of Section 286, makes a retail sale or sales of a previously leased or rented vehicle or vehicles to other than any of the following:

(a) The lessee of the vehicle.

(b) A buyer for agricultural, business, or commercial purposes.

(c) A government or governmental agency or instrumentality.

SEC. 7. Section 508 is added to the Vehicle Code, to read:

508. A "renter" is a person who is engaged in the business of renting, leasing or bailing vehicles for a term not exceeding four months and for a fixed rate or price.

SEC. 8. Section 520 is added to the Vehicle Code, to read:

520. A "retail sale" is a sale of goods to a person for the purpose of consumption and use, and not for resale to others, including, but not limited to, an arrangement where a motor vehicle is consigned to a dealer for sale.

SEC. 8.2. Section 4456 of the Vehicle Code is amended to read:

4456. (a) The department may authorize dealers and lessor-retailers licensed by the department to use numbered copies of the report of sale form and corresponding temporary identification devices upon vehicles they sell.

(b) Such copies and identification devices shall be used pursuant to rules and regulations prescribed by the department and upon the terms and conditions set forth in this section.

(c) New and used vehicles not licensed in this state may be

operated without license plates or registration cards and used vehicles licensed in this state may be operated without registration cards not to exceed 20 days from the date sold by a dealer or until the license plates or cards are received from the department when a copy of the report of sale form and the temporary identification device are used and displayed in accordance with the rules and regulations of the department, provided that the dealer meets the following terms and conditions:

(1) The copy of the report of sale and its corresponding temporary identification device shall be affixed to the appropriate vehicle upon delivery to a purchaser.

(2) All fees and any penalties which may be due the department to register or transfer registration of the vehicle are paid over to the department by the selling dealer within 20 days of the sale.

(3) The sale of the vehicle shall be reported to the department as required by Section 5901.

(4) An application in proper form to register the vehicle or to effect transfer of ownership, together with the required supporting documents shall be submitted to the department on behalf of the purchaser. If, however, such documents do not include the regularly required evidence of ownership, the dealer shall also submit a motor vehicle bond or undertaking as provided for in Section 4157, or an affidavit or other information as provided for in Section 5911, or both.

(d) The use by any dealer or lessor-retailer of a report of sale copy as provided herein shall obligate the dealer to pay the fees and penalties determined by the department to be due on the vehicle under Division 3 (commencing with Section 4000) of the Vehicle Code and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code and which have been advanced to the dealer or lessor-retailer by the customer either by cash, trade-in or under the provisions of a contract, and those penalties which have accrued because of failure of the dealer or lessor-retailer to make timely or proper application for his customer.

SEC. 8.3. Section 4750.5 of the Vehicle Code is amended to read:

4750.5. (a) The department shall withhold the registration or the transfer of registration of any vehicle sold at retail to any applicant by any person other than a vehicle manufacturer or dealer holding a license and certificate issued pursuant to Chapter 4 (commencing with Section 11700) of Division 5, or an automobile dismantler holding a license and certificate issued pursuant to Chapter 3 (commencing with Section 11500) of Division 5, or a lessor-retailer holding a license issued pursuant to Chapter 3.5 (commencing with Section 11600) of Division 5, and subject to the provisions of Section 11615.5, until the applicant pays to the department the use tax measured by the sales price of the vehicle as required by the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), together with penalty, if any, unless the State Board of Equalization finds that no use tax is due. If the applicant so desires, he may pay the use tax and

penalty, if any, to the department so as to secure immediate action upon his application for registration or transfer of registration, and thereafter he may apply through the Department of Motor Vehicles to the State Board of Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

(b) The department shall transmit to the State Board of Equalization all collections of use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule in such form as the department and board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. Such reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

(d) In computing any use tax or penalty thereon under the provisions of this section, dollar fractions shall be disregarded in the manner specified in Section 9559 of this code. Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as they are applicable to the use of vehicles to which this section relates.

SEC. 8.4. Section 5901 of the Vehicle Code is amended to read:

5901. (a) Every dealer or lessor-retailer, upon transferring by sale, lease or otherwise any vehicle, whether new or used, of a type subject to registration under this code, shall, not later than the end of the fifth calendar day thereafter, not counting the day of sale, give written notice of the transfer to the department at its headquarters upon an appropriate form provided by it.

(b) Except as otherwise provided in this subdivision or in subdivision (c), in the case of a vehicle under 6,001 pounds, manufacturer's maximum gross vehicle weight rating, the dealer or lessor-retailer shall indicate on the form the actual mileage of the vehicle as indicated by the vehicle's odometer at the time of the transfer. A dealer or lessor-retailer need not give the notice when selling or transferring a new unregistered vehicle to a dealer or lessor-retailer.

(c) When the dealer or lessor-retailer is not in possession of the vehicle that is sold or transferred, the person in physical possession of such vehicle shall give the information required by subdivision (b).

(d) A "sale" shall be deemed completed and consummated when the purchaser of that vehicle has paid the purchase price, or, in lieu thereof, has signed a purchase contract or security agreement, and taken physical possession or delivery of that vehicle.

SEC. 9. Section 5901.1 is added to the Vehicle Code, to read:

5901.1. (a) Except in the case of a lease for agricultural, business, or commercial purposes, or to a government or governmental agency or instrumentality, every lessor, upon the lease or bailment of a vehicle of a type subject to registration under this code, shall within 30 calendar days submit to the department a notice of lease

or bailment upon a form provided by the department.

(b) The department shall charge and the lessor shall pay, in an amount set by the director, a fee for such form provided, to recover the actual costs incurred by the department in the collection of the fee and in regulating lessors. Such fee shall not exceed five dollars ($5) per notice.

SEC. 10. Section 9262.5 is added to the Vehicle Code, to read:

9262.5. The fee for a license issued to a lessor-retailer shall be:

(a) For the original license, an application fee of twenty-five dollars ($25) and for any branch office location license, an application fee of fifteen dollars ($15).

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

(c) Where an alteration of an existing license is caused by a firm name change or address change, a fee of fifteen dollars ($15).

SEC. 11. Chapter 3.5 (commencing with Section 11600) is added to Division 5 of the Vehicle Code, to read:

CHAPTER 3.5. LESSOR-RETAILERS

11600. It shall be unlawful for any lessor-retailer to make a retail sale of a vehicle of a type subject to registration without having first procured either a vehicle dealer license or a lessor-retailer license or temporary permit issued by the department or when such license or temporary permit issued by the department has been canceled, suspended, revoked, or invalidated or has expired.

11601. (a) Every lessor-retailer who sells at retail a vehicle of a type subject to registration shall make application to the department for a license. The applicant shall submit proof of his status as a bona fide lessor-retailer as may reasonably be required by the department.

(b) An application shall be made for the principal place of business, and a separate branch office application shall be made for each branch office location of the licensee as shall be operated and maintained by the applicant in conjunction with the retail sale or sales of vehicles.

(c) "Principal place of business," for the purposes of this chapter, means the place designated by the lessor-retailer as the main business or office location in California whether or not retail sales are made from such location.

11602. (a) The department shall prescribe and provide forms to be used for application for licenses to be issued under the terms and provisions of this chapter 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; provided, however, that every application for a lessor-retailer license shall contain, in addition to such information that the department may require, a statement of the following facts:

(1) 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 partnership, 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.

(2) A complete description, including the city, town or village with the street and number, if any, of its principal place of business in California and such other and additional branch location or locations.

(b) Upon receipt of an application accompanied with the appropriate fee, the department shall make a thorough investigation of the information contained in the application.

11603. (a) The department may issue, or for reasonable cause shown, refuse to issue, a license to any applicant applying for a lessor-retailer license or branch office location.

(b) The license shall contain the applicant's name, location address and the general distinguishing number assigned to the applicant.

11604. The department may refuse to issue a lessor-retailer license when it determines that:

(1) The applicant has outstanding an unsatisfied final court judgment rendered in connection with an activity licensed under the authority of this division.

(2) The applicant was previously the holder of a license issued under this division, 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.

(3) 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 division was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been terminated.

(4) If the applicant is a partnership or corporation, that one or more of the limited or general partners, controlling stockholders, directors or officers was previously the holder or a limited or general partner, controlling stockholder, director or officer of a partnership or corporation whose license issued under the authority of this division was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been terminated, 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.

04248 295575 788

(5) 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 applicant be a corporation, 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.

(6) The information contained in the application is materially inaccurate.

(7) 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 controlling stockholder of such licensee.

(8) The applicant does not have a principal place of business in California.

11605. (a) Upon refusal of the department to issue a license to a lessor-retailer, the applicant shall be entitled to demand in writing a hearing before the director or his representative within 60 days after notice of refusal.

(b) The hearing shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

11606. Except where the provisions of this code require the refusal to issue a license, the department may issue a probationary license subject to conditions to be observed by the licensee in the exercise of the privilege granted. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license but shall be such as may, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein.

11607. Pending the satisfaction of the department that the applicant has met the requirements under this chapter, it may issue a temporary permit to any person applying for a lessor-retailer license or branch office location. The temporary permit shall permit the operation by the lessor-retailer while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant to such license. The department may cancel such temporary permit when it has determined or has reasonable cause to believe that the application is incorrect or incomplete or the temporary permit was issued in error. Such temporary permit shall be invalid when canceled or when the applicant's license has been issued or refused.

11608. The department may issue a certificate of convenience to the executor, executrix, administrator or administratrix of the estate of a deceased holder of a valid license issued under this chapter, or if no executor, executrix, administrator or administratrix has been appointed, and until a certified copy of an order making such

04248 295590 791

appointment is filed with the department, to the widow or other heir otherwise entitled to conduct the business of the deceased, permitting such person to exercise the privileges granted by such license for a period of one year from and after the date of death and necessary one-year renewals thereafter, pending, but not later than, disposal of the business and qualification of the vendee of the business or such surviving widow, heir or other persons for such license under the provisions of this chapter. The department may restrict or condition the license and attach to the exercise of the privileges thereunder such terms and conditions as in its judgment the protection of the public requires.

11609. Each office location operated and maintained by a lessor-retailer in conjunction with its retail sale of a vehicle or vehicles shall have posted in a place conspicuous to the public the license issued by the department to the lessor, and shall have erected or posted thereon such signs or devices providing information relating to the lessor-retailer's name, the office location and the office address, to enable any person doing business with such lessor to identify him properly.

11610. (a) Should the lessor change the location of its principal place of business or any branch office location in California, he shall immediately upon making such change so notify the department.

(b) Should a lessor for any reason whatsoever, cease to be in possession of its principal place of business or any branch office location, he shall immediately notify the department, and shall deliver to the department the lessor-retailer license issued for such location, and upon demand all report of sale books in his possession.

11612. (a) Before any lessor-retailer license shall be issued or renewed by the department to any applicant therefor, the applicant shall procure and file with the department a good and sufficient bond meeting the same requirements as specified for a vehicle dealer's license in Sections 11710, 11710.1, and 11710.2.

(b) Any cause of action or claim specified in Section 11711 against a vehicle dealer's bond shall also be a cause of action or claim against a lessor-retailer's bond.

11613. (a) The department, after notice and hearing, may suspend or revoke the license issued to a lessor-retailer upon determining that the person to whom the license was issued is not lawfully entitled thereto, or has committed any of following acts:

(1) Filed an application for the license thereafter issued using a false or fictitious name not registered with the proper authorities, or knowingly made any false statement or knowingly concealed any material fact, in the application for such license.

(2) Has used a false or fictitious name, knowingly made any false statement or knowingly concealed any material fact in any application for the registration of a vehicle, or otherwise committed a fraud in such application.

(3) Has knowingly purchased, sold or otherwise acquired or disposed of a stolen motor vehicle.

(4) Has violated any of the terms and provisions of Division 3 (commencing with Section 4000) or a rule or regulation adopted pursuant thereto under the authority or Section 1651.

(5) Has violated any of the terms and conditions of Division 4 (commencing with Section 10500) or the rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(6) Has violated any of the provisions of this chapter or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(7) Has violated any of the terms or provisions of Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code or the rules and regulations adopted pursuant thereto under the authority of Section 1651.

(8) Has submitted a check, draft or money order to the department for any obligation or fee due the state and it is thereafter dishonored or refused payment upon presentation.

(9) Has caused any person to suffer any loss or damage by reason of any fraud or deceit practiced on him or fraudulent representations made to such person in the sale of a vehicle or parts or accessories thereof.

For the purposes of this subdivision, the term "fraud" includes any act or omission which is included within the definition of either "actual fraud" or "constructive fraud" as defined in Sections 1572 and 1573 of the Civil Code, and the term "deceit" has the same meaning as defined in Section 1710 of the Civil Code. In addition, the terms "fraud" and "deceit" include, but are not limited to, the following: a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made honestly and in good faith; an intentional failure to disclose a material fact; any act falling within the provisions of Section 484 of the Penal Code.

(b) Any of the causes specified in Section 11604 as a cause for refusal to issue a license to a lessor-retailer applicant shall be cause to suspend or revoke a license and certificate issued to a lessor-retailer.

(c) 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.

11614. It shall be unlawful and a violation of this code for a lessor-retailer licensed under this chapter in connection with any activity for which this license is required:

(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 oral representation, 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 know, 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

04248 295615 796

vehicle or sell service so advertised at the price stated therein, or as so advertised.

(b) To advertise or offer for sale in any manner, any vehicle not actually for sale at the premises of such lessor-retailer or available within a reasonable time to said lessor-retailer at the time of the advertisement or offer.

(c) To fail within 48 hours in writing to give notification to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) To advertise any specific vehicle for sale without identifying such vehicle by either its vehicle identification number or license number.

(e) To advertise the total price of a vehicle without including all costs to the purchaser at the time of delivery at the lessor-retailer's premises, except sales tax, vehicle registration fees and finance charges.

(f) 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.

(g) To refuse to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, and finance charges, while such vehicle remains unsold or unleased unless the advertisement states the advertised total price is good only for a specified time and such time has elapsed.

(h) 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.

(i) To engage in the business for which such lessor-retailer is licensed without at all times maintaining a principal place of business and a branch office location or locations as required by this chapter.

(j) To permit the use of his lessor-retailer 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 lessor-retailer license, supplies or books to operate a branch office 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 office 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 lessor-retailer license, supplies or books to engage in the sale of vehicles.

(k) To violate any of the provisions of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

11615. It shall be unlawful and a violation of this code for a

lessor-retailer licensed under this chapter when selling at retail a vehicle in a transaction for which this license is required:

(a) 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.

(b) To fail to deliver to a transferee lawfully entitled thereto a properly endorsed certificate of ownership.

(c) To violate any of the terms or provisions of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651 of this code.

(d) To take a vehicle in trade in part or total payment for a vehicle sold by the lessor-retailer.

(e) To sell a vehicle which has not been previously leased, bailed or rented or acquired or contracted for lease or rental by the lessor-retailer.

11615.5. It is unlawful and a violation of this code for a person holding a license under this chapter to make a retail sale of a motor vehicle, except to the lessee of such vehicle, required to be registered pursuant to Division 3 (commencing with Section 4000) or subject to identification pursuant to Division 16.5 (commencing with Section 3800) if such person files with the department a report of sale as provided in Section 4456 with respect to such retail sale, without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

11616. If a purchaser of a vehicle pays to the lessor-retailer an amount for the licensing or transfer of title of the vehicle, which amount is in excess of the actual fees due for such licensing or transfer, or which amount is in excess of the amount which has been paid, prior to the sale, by the lessor-retailer to the state in order to avoid penalties that would have accrued because of late payment of such fees, the lessor-retailer shall return such excess amount to the purchaser, whether or not such purchaser requests the return of the excess amount.

11617. (a) The license provided for in this chapter shall be automatically canceled upon:

(1) The abandonment of the principal place of business of the lessor-retailer or the change thereof without notice to the department as provided in Section 11610.

(2) The failure of the licensee to maintain an adequate bond or to procure and file another bond as provided in Section 11612 prior to the effective date of the termination by the surety of any existing bond.

(3) The voluntary or involuntary surrender for any cause by the licensee of the license; provided that such surrender, or the cessation of business by the licensee, or the suspension of the corporate charter of the licensee by the State of California, shall not prevent the filing of an accusation for revocation or suspension of the surrendered

license as provided in Section 11613, and the department's decision that such license should be suspended or revoked; and provided further, that such determination may be considered in granting or refusing to grant any subsequent license authorized by this division to such licensee, copartner or any officer, director or controlling stockholder of such prior licensee.

(4) Notification that the person designated as licensee has changed.

(5) Suspension or cancellation of the corporate charter of the licensee by the State of California.

(b) The branch office location license provided for in this chapter shall be automatically canceled upon the abandonment of the branch office location of the lessor-retailer or the change thereof without notice to the department as provided in Section 11610.

11618. The department may, pending a hearing, temporarily suspend the license issued to a lessor-retailer for a period not to exceed 30 days, if the director finds that such action is required in the public interest. In any such case a hearing shall be held and a decision thereon issued within 30 days after notice of the temporary suspension.

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. 12. Section 40000.7 of the Vehicle Code is amended to read:

40000.7. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

Section 2801, relating to failure to obey a fireman's lawful order.

Section 2803, relating to unlawful vehicle or load.

Section 2815, relating to failure to obey a crossing guard's traffic signal or direction.

Section 5753, relating to delivery of certificates of ownership and registration when committed by a dealer or any person while a dealer within the preceding 12 months.

Section 5901, relating to dealers and lessor-retailers giving notice.

Section 5901.1, relating to lessors giving notice and failure to pay fee.

Section 8803, relating to return of canceled, suspended or revoked documents and license plates of a dealer, manufacturer, transporter, dismantler, or salesman.

SEC. 13. This act shall not be construed to impose a tax on any person who is subject to taxation pursuant to Section 27 of Article XIII of the California Constitution and is described in Section 23182 of the Revenue and Taxation Code.

SEC. 14. Sections 1 and 2 of this act shall become operative on March 23, 1977.

SEC. 15. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the Motor Vehicle Account in the State

Transportation Fund to the Department of Motor Vehicles for the purposes of carrying out the provisions of this act. The Motor Vehicle Account in the State Transportation Fund shall be reimbursed during the 1976–77 fiscal year for the amount appropriated by this section from the revenues first derived from the fees collected and deposited pursuant to the provisions of Sections 5901.1 and 9262.5 of the Vehicle Code.

SEC. 16. 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 1285

An act to amend Sections 2981, 2982, 2982.7, 2983.4, and 2984.4 of, to add Section 2982.9 to, the Civil Code, relating to automobile sales.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 2981 of the Civil Code is amended to read:

2981. As used in this chapter, unless the context otherwise requires:

(a) "Conditional sale contract" means:

(1) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer but the title vests in the buyer thereafter only upon the payment of all or part of the price, or upon the performance of any other condition, or

(2) Any contract for the bailment or leasing of a motor vehicle between a buyer and a seller, with or without accessories, by which the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract, or

(3) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer, and a lien on the property is to vest in the seller as security for the payment of part or all of the price, or for the

performance of any other condition.

(b) "Seller" means a person engaged in the business of selling or leasing motor vehicles under conditional sale contracts.

(c) "Buyer" means the person who buys or hires a motor vehicle under a conditional sale contract.

(d) "Person" includes an individual, company, firm, association, partnership, trust, corporation, or other legal entity.

(e) "Cash price" means the amount for which the seller would sell and transfer to the buyer unqualified title to the motor vehicle described in the conditional sale contract, if the property were sold for cash at the seller's place of business on the date the contract is executed, and may include taxes to the extent imposed on the cash sale and the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications, and improvements.

(f) "Downpayment" means any payment which the buyer pays or agrees to pay to the seller in cash or property value or money's worth at or prior to delivery by the seller to the buyer of the motor vehicle described in the conditional sale contract.

(g) "Unpaid balance" means the difference between (e) and (f), plus all insurance premiums (except for credit life or disability insurance when the amount thereof is included in the finance charge), which are included in the contract balance, and the total amount paid or to be paid (1) to any public officer in connection with the transaction, and (2) for license, certificate of title, and registration fees imposed by law.

(h) "Finance charge" means any amount which the buyer agrees to pay to the seller in excess of the unpaid balance.

(i) "Total of payments" or "contract balance" means the amount unpaid under the conditional sale contract, which the buyer agrees to pay in installments to the seller as originally provided therein, and shall not include amounts for which the buyer may later become obligated under the terms of the contract in connection with insurance, repairs to or preservation of the motor vehicle preservation of the security interest therein, or otherwise. Either term may be used in lieu of the other in complying with this chapter.

(j) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code which is bought for use primarily for personal or family purposes, and does not mean any vehicle which is bought for use primarily for business or commercial purposes.

(k) "Purchase order" means a sales order, car reservation, statement of transaction or any other such instrument used in the conditional sale of a motor vehicle pending execution of a conditional sale contract. The purchase order shall conform to the disclosure requirements of paragraphs 1 to 8, inclusive, and paragraphs 10 and 11 of subdivision (a) of Section 2982 and Section 2984.1 and the provisions of subdivision (e), (f), and (g) of Section 2982 shall be applicable thereto.

(*l*) "Regulation Z" means Regulation Z promulgated by the

Board of Governors of the Federal Reserve System under the Federal Truth in Lending Act (15 U.S.C. 1601, et seq.), and compliance with the interpretations of that board shall be deemed to be full compliance with Regulation Z with respect to the subject matter of such interpretations.

SEC. 2. Section 2982 of the Civil Code is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than six-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of the unpaid balance, which is the sum of items 3, 4, and 5.

7. The amount of the finance charge.

8. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

9. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

10. A notice, in at least eight-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

11. A notice to the buyer, in writing, and, if printed, in type no smaller than eight-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater. The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to maturity by prepayment or refinancing, or upon surrender or repossession and resale of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the

sum of the periodic time balances payable more than 15 days after the date of prepayment (or other event entitling the buyer to the refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (c) of this section. Where the amount of such refund is less than one dollar ($1), no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 8, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise. This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the purpose of computing any penalty under Section 2983.1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

SEC. 2.3. Section 2982 of the Civil Code is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than six-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of the unpaid balance, which is the sum of items 3, 4, and 5.

7. The amount of the finance charge, and the annual percentage rate as defined in the Federal Truth-In-Lending Act (15 U.S.C. 1601 et seq.).

8. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

9. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5

and 2984 of this code is to be sent.

10. A notice, in at least eight-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

11. A notice to the buyer, in writing, and, if printed, in type no smaller than eight-point that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater. The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to maturity by prepayment or refinancing, or upon surrender or repossession and resale of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the sum of the periodic time balances payable more than 15 days after the date of prepayment (or other event entitling the buyer to the

refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (c) of this section. Where the amount of such refund is less than one dollar ($1), no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single-interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 8, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise. This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the purpose of computing any penalty under Section 2983.1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

SEC. 2.5. Section 2982 of the Civil Code is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than six-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of the unpaid balance, which is the sum of items 3, 4, and 5.

7. The amount of the finance charge.

8. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

9. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

10. A notice, in at least eight-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be

filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

11. A notice to the buyer, in writing, and if printed, in type no smaller than eight-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater. The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to maturity by prepayment or refinancing, or upon surrender or repossession and disposition of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the sum of the periodic time balances payable more than 15 days after the date of prepayment (or other event entitling the buyer to the refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and

reasonable costs and fees as provided in subdivision (c) of this section. Where the amount of such refund is less than one dollar ($1), no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single-interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 8, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise. This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the purpose of computing any penalty under Section 2983.1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

SEC. 2.7. Section 2982 of the Civil Code is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than six-point, and shall contain in a single document all of the agreements of the buyer and

seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of the unpaid balance, which is the sum of items 3, 4, and 5.

7. The amount of the finance charge, and the annual percentage rate as defined in the Federal Truth-In-Lending Act (15 U.S.C. 1601 et seq.).

8. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

9. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

10. A notice, in at least eight-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in

03456 296190 839

advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

11. A notice to the buyer, in writing, and, if printed, in type no smaller than eight-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater. The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to maturity by prepayment or refinancing, or upon surrender or repossession and disposition of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the sum of the periodic time balances payable more than 15 days after the date of prepayment (or other event entitling the buyer to the refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (c) of this section. Where the amount of such refund is less than one dollar ($1),

no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single-interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 8, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise. This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the purpose of computing any penalty under Section 2983.1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

SEC. 4. Section 2982.7 of the Civil Code is amended to read:

2982.7. (a) Any payment made by a buyer to a seller pending execution of a conditional sale contract shall be refunded to the buyer in the event the conditional sale contract is not executed.

(b) In the event of breach by the seller of a conditional sale contract or purchase order where the buyer leaves his motor vehicle with the seller as downpayment and such motor vehicle is not

returned by the seller to the buyer for whatever reason, the buyer may recover from the seller either the fair market value of the motor vehicle left as a downpayment or its value as stated in the contract or purchase order, whichever is greater. The recovery shall be tendered to the buyer within five business days after the breach.

(c) The remedies of the buyer provided for in subdivision (b) are nonexclusive and cumulative and shall not preclude the buyer from pursuing any other remedy which he may have under any other provision of law.

SEC. 4.5. Section 2982.9 is added to the Civil Code, to read:

2982.9. In the event a buyer obligates himself to purchase, or receive possession of, a motor vehicle pursuant to a contract or purchase order, and the seller knows that the buyer intends to obtain financing from a third party without the assistance of the seller, and the buyer is unable to obtain such financing, the contract or purchase order shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand.

SEC. 5. Section 2983.4 of the Civil Code is amended to read:

2983.4. Reasonable attorney's fees and costs shall be awarded to the prevailing party in any action on a contract or purchase order subject to the provisions of this chapter regardless of whether the action is instituted by the seller, holder or buyer. Where the defendant alleges in his answer that he tendered to the plaintiff the full amount to which he was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be a prevailing party within the meaning of this section.

SEC. 6. Section 2984.4 of the Civil Code, as amended by Chapter 1516 of the Statutes of 1974, is amended to read:

2984.4. An action on a contract or purchase order under the provisions of this chapter shall be tried in the county in which the contract or purchase order was in fact signed by the buyer, in the county in which the buyer resided at the time the contract or purchase order was entered into, in the county in which the buyer resides at the commencement of the action or in the county in which the motor vehicle purchased pursuant to such contract or purchase order is permanently garaged.

In any action involving multiple claims, or causes of action, venue shall lie in such counties so long as there is at least one claim or cause of action arising from a contract subject to the provisions of this chapter.

If within any such county there is a municipal or justice court, having jurisdiction of the subject matter, established in the judicial district in which the contract, conditional sale contract, or purchase order was in fact signed by the buyer, or in which the buyer resided at the time the contract, conditional sale contract, or purchase order was entered into, or in which the buyer resides at the commencement of the action, or in which the motor vehicle purchased pursuant to such contract is permanently garaged, such

court is the proper court for the trial of the action. Otherwise, any municipal or justice court in such county, having jurisdiction of the subject matter, is the proper court for the trial of the action.

In any action subject to the provisions of this section, concurrently with the filing of the complaint, the plaintiff shall file an affidavit stating facts showing that the action has been commenced in a county or judicial district described in this section as a proper place for the trial of the action. Such facts may be stated in a verified complaint and shall not be stated on information or belief. When such affidavit is filed with the complaint, a copy thereof shall be served with the summons. If a plaintiff fails to file the affidavit or state facts in a verified complaint required by this section, no further proceedings shall be had, but the court shall, upon its own motion or upon motion of any party, dismiss any such action without prejudice; however, the court may, on such terms as may be just, permit the affidavit to be filed subsequent to the filing of the complaint and a copy of such affidavit shall be served on the defendant. The time to answer or otherwise plead shall date from such service.

SEC. 7. It is the intent of the Legislature that if this bill and Assembly Bill No. 3689 or Senate Bill No. 1894, or both, are chaptered and amend Section 2982 of the Civil Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(a) If this bill and Assembly Bill No. 3689 are both chaptered and amend Section 2982 of the Civil Code, but Senate Bill No. 1894 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 3689, the amendments proposed by both bills shall be given effect and incorporated in Section 2982 in the form set forth in Section 2.3 of this act. Therefore, if Assembly Bill No. 3689 is chaptered before this bill and both bills amend Section 2982, and Senate Bill No. 1894 is not chaptered or as chaptered does not amend that section, Section 2.3 of this act shall be operative and Sections 2, 2.5, and 2.7 of this act shall not become operative.

(b) If this bill and Senate Bill No. 1894 are both chaptered and amend Section 2982 of the Civil Code, but Assembly Bill No. 3689 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1894, the amendments proposed by both bills shall be given effect and incorporated in Section 2982 in the form set forth in Section 2.5 of this act. Therefore, if Senate Bill No. 1894 is chaptered before this bill and both bills amend Section 2982, and Assembly Bill No. 3689 is not chaptered or as chaptered does not amend that section, Section 2.5 shall be operative and Sections 2, 2.3, and 2.7 of this act shall not become operative.

(c) If this bill and Assembly Bill No. 3689 and Senate Bill No. 1894 are all chaptered, and all three bills amend Section 2982 of the Civil Code, and this bill is chaptered after Assembly Bill No. 3689 and Senate Bill No. 1894, the amendments proposed by all three bills shall be given effect and incorporated in Section 2982 in the form set forth

in Section 2.7 of this act. Therefore, if Assembly Bill No. 3689 and Senate Bill No. 1894 are both chaptered before this bill and all three bills amend Section 2982 of the Civil Code, Section 2.7 of this act shall be operative and Sections 2, 2.3, and 2.5 of this act shall not become operative.

CHAPTER 1286

An act to amend Section 2982 of the Civil Code and Section 675 of the Vehicle Code, relating to sales of vehicles.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Section 2982 of the Civil Code is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than six-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or

03689 296285 858

disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of the unpaid balance, which is the sum of items 3, 4, and 5.

7. The amount of the finance charge, and the annual percentage rate as defined in the Federal Truth-in-Lending Act (15 U.S.C. 1601 et seq.).

8. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

9. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

10. A notice, in at least eight-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater. The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have

the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to maturity by prepayment or refinancing, or upon surrender or repossession and resale of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the sum of the periodic time balances payable more than 15 days after the date of prepayment (or other event entitling the buyer to the refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (c) of this section. Where the amount of such refund is less than one dollar ($1), no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single-interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 8, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise. This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the purpose of computing any penalty under Section 2983.1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time

such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

SEC. 2. Section 2982 of the Civil Code is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than six-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of the unpaid balance, which is the sum of items 3, 4, and 5.

7. The amount of the finance charge, and the annual percentage

rate as defined in the Federal Truth-In-Lending Act (15 U.S.C. 1601 et seq.).

8. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

9. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

10. A notice, in at least eight-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

11. A notice to the buyer, in writing, and, if printed, in type no smaller than eight-point that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater. The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to

maturity by prepayment or refinancing, or upon surrender or repossession and resale of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the sum of the periodic time balances payable more than 15 days after the date of prepayment (or other event entitling the buyer to the refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (c) of this section. Where the amount of such refund is less than one dollar ($1), no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single-interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 8, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise. This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the purpose of computing any penalty under Section 2983.1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional

03689 296390 879

information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

SEC. 3. Section 2982 of the Civil Code is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than six-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of the unpaid balance, which is the sum of items 3, 4, and 5.

7. The amount of the finance charge, and the annual percentage rate as defined in the Federal Truth-In-Lending Act (15 U.S.C. 1601 et seq.).

8. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

9. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

10. A notice, in at least eight-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditons to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater. The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to maturity by prepayment or refinancing, or upon surrender or repossession and disposition of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the sum of the periodic time balances payable more than 15 days after the date of prepayment (or other event entitling the buyer to the

03689 296415 884

refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (c) of this section. Where the amount of such refund is less than one dollar ($1), no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single-interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 8, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise. This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the purpose of computing any penalty under Section 2983.1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

SEC. 4. Section 2982 of the Civil Code is amended to read:

03689 296430 887

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than six-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of the unpaid balance, which is the sum of items 3, 4, and 5.

7. The amount of the finance charge, and the annual percentage rate as defined in the Federal Truth-In-Lending Act (15 U.S.C. 1601 et seq.).

8. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

9. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

10. A notice, in at least eight-point bold type if the contract is

printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

11. A notice to the buyer, in writing, and, if printed, in type no smaller than eight-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater. The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to maturity by prepayment or refinancing, or upon surrender or repossession and disposition of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the sum of the periodic time balances payable more than 15 days after the date of prepayment (or other event entitling the buyer to the refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this

03689 296455 892

subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (c) of this section. Where the amount of such refund is less than one dollar ($1), no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single-interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 8, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise. This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the purpose of computing any penalty under Section 2983.1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

SEC. 5 Section 675 of the Vehicle Code is amended to read:

675. (a) "Vehicle salesman" is a person not otherwise expressly excluded by this section, who does one or a combination of the following:

(1) Is employed as a salesman by a dealer as defined in Section 285, or who, under any form of contract, agreement, or arrangement with a dealer, for commission, money, profit, or other thing of value, sells, exchanges, buys, or offers for sale, negotiates, or attempts to negotiate, a sale, or exchange of an interest in a vehicle required to be registered under this code.

(2) Induces or attempts to induce any person to buy or exchange an interest in a vehicle required to be registered, and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller or purchaser of said vehicle.

(3) Exercises managerial control over the business of a licensed vehicle dealer or who supervises vehicle salesmen employed by a licensed dealer, whether compensated by salary or commission, including but not limited to any person who is employed by said dealer as a general manager, assistant general manager or sales manager, or any employee of a licensed vehicle dealer who negotiates with or induces a customer to enter into a security agreement or purchase agreement or purchase order for the sale of a vehicle on behalf of said licensed vehicle dealer.

(b) The term "vehicle salesman" does not include:

(1) Representatives of insurance companies, finance companies, or public officials who in the regular course of business, are required to dispose of, or sell vehicles under a contractual right or obligation of the employer, or in the performance of an official duty, or in authority of any court of law; provided, such sale is for the purpose of saving the seller from any loss or pursuant to the authority of a court of competent jurisdiction.

(2) Persons who are licensed as a manufacturer, transporter, distributor, or representative.

(3) Persons exclusively employed in a bona fide business of exporting vehicles, or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States.

(4) Persons not engaged in the purchase or sale of vehicles as a business, disposing of vehicles acquired for their own use, or for use in their business when the same shall have been so acquired and used in good faith, and not for the purpose of avoiding the provisions of this code.

(5) Persons regularly employed as salesmen by persons who are engaged in a business involving the purchase, sale or exchange of boat trailers.

(6) Persons regularly employed as salesmen by persons who are engaged in a business activity which does not involve the purchase, sale or exchange of vehicles except incidentally in connection with the purchase, sale or exchange of vehicles of a type not subject to registration under this code, boat trailers or midget autos or racers advertised as being built exclusively for use by children.

(7) Persons licensed as a vehicle dealer under this code doing

03689 296485 898

business as a sole ownership or member of a partnership or a stockholder and director of a corporation licensed as a vehicle dealer under this code, provided, however, that such persons shall engage in the activities of a salesman as defined herein exclusively on behalf of said sole ownership or partnership or corporation in which they own an interest or stock, and those persons owning such stock shall be directors of such corporation; otherwise, they shall be deemed to be vehicle salesmen and subject to the provisions of Article 2 (commencing with Section 11800) of Chapter 4, Division 5.

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 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.

SEC. 7. It is the intent of the Legislature that if this bill and Assembly Bill No. 3456 or Senate Bill No. 1894, or both, are chaptered and amend Section 2982 of the Civil Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(a) If this bill and Assembly Bill No. 3456 are both chaptered and amend Section 2982 of the Civil Code, but Senate Bill No. 1894 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 3456 the amendments proposed by both bills shall be given effect and incorporated in Section 2982 in the form set forth in Section 2 of this act. Therefore, if Assembly Bill No. 3456 is chaptered before this bill and both bills amend Section 2982, and Senate Bill No. 1894 is not chaptered or as chaptered does not amend that section, Section 2 of this act shall be operative and Sections 1, 3, and 4 of this act shall not become operative.

(b) If this bill and Senate Bill No. 1894 are both chaptered and amend Section 2982 of the Civil Code, but Assembly Bill No. 3456 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1894, the amendments proposed by both bills shall be given effect and incorporated in Section 2982 in the form set forth in Section 3 of this act. Therefore, if Senate Bill No. 1894 is chaptered before this bill and both bills amend Section 2982, and Assembly Bill No. 3456 is not chaptered or as chaptered does not amend that section, Section 3 shall be operative and Sections 1, 2, and 4 of this act shall not become operative.

(c) If this bill and Assembly Bill No. 3456 and Senate Bill No. 1894 are all chaptered, and all three bills amend Section 2982 of the Civil Code, and this bill is chaptered after Assembly Bill No. 3456 and Senate Bill No. 1894, the amendments proposed by all three bills shall be given effect and incorporated in Section 2982 in the form set forth in Section 4 of this act. Therefore, if Assembly Bill No. 3456 and

Senate Bill No. 1894 are both chaptered before this bill and all three bills amend Section 2982 of the Civil Code, Section 4 of this act shall be operative and Sections 1, 2, and 3 of this act shall not become operative.

CHAPTER 1287

An act to add and repeal Chapter 5-B (commencing with Section 118) to Title 1 of Part 1 of the Code of Civil Procedure, relating to courts.

[Approved by Governor September 27, 1976 Filed with Secretary of State September 28, 1976]

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

SECTION 1. Chapter 5-B (commencing with Section 118) is added to Title 1 of Part 1 of the Code of Civil Procedure, to read:

CHAPTER 5-B. SMALL CLAIMS COURT EXPERIMENTAL PROJECT

Article 1. Legislative Intent

118. It is the intent of the Legislature in enacting this chapter to:

(a) Establish procedures and programs in the small claims courts of specified districts designed to stimulate use of those courts by, and reduce the number of defaults by, untrained individual litigants unfamiliar with the judicial system who might have previously considered small claims courts an inconvenient or unsatisfactory forum for the resolution of disputes; and

(b) Establish systems for data collection and evaluation and provide the Legislature with a report of the effectiveness of these programs and procedures with recommendations for future action.

Article 2. Advisory Committee

119. Prior to January 31, 1977, there shall be established an advisory committee which shall consist of all of the following:

(a) The Attorney General or his representative;

(b) Two consumer representatives from consumer groups or agencies to be appointed by the Secretary of the Agriculture and Services Agency;

(c) One representative appointed by the Speaker of the Assembly and one representative appointed by the President pro Tempore of the Senate;

(d) Two representatives to be appointed by the Board of Governors of the State Bar;

(e) Two representatives of the business community to be

03606 296525 906

appointed by the Secretary of the Business and Transportation Agency.

(f) Six judges of the municipal court who have extensive experience presiding in small claims court, to be appointed by the Judicial Council.

119.1. The advisory committee shall first convene within 15 days of its establishment. It shall, among other business, elect its chairperson at that time.

119.2. Staff assistance to the advisory committee shall be provided by the Department of Consumer Affairs as needed.

119.3. The members of the advisory committee shall serve without compensation but shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties.

119.4. The advisory committee shall assist the Department of Consumer Affairs in compiling and evaluating data, and preparing a report to the Legislature of the effectiveness of the programs and procedures in the project districts together with recommendations for future action.

Article 3. Administration of Experimental Project Districts

120. The small claims divisions of three municipal court districts in three different counties shall, prior to January 31, 1977, be designated as experimental districts by the Judicial Council, with the advice of the Department of Consumer Affairs and the concurrence of the municipal court which would be involved in the project. The districts selected shall be:

(a) Primarily urban;

(b) Have a current small claims court caseload of 600 to 1,200 cases per month; and

(c) Have a population of not less than 10 percent Spanish-surnamed persons.

Judicial districts which appear to satisfy these qualifications include: in Alameda County, the Oakland-Piedmont Judicial District; in Fresno County, the Fresno Judicial District; in Los Angeles County, the South Bay Judicial District; in Sacramento County, the Sacramento Judicial District; in San Bernardino County, the San Bernardino Judicial District; in San Francisco City and County, the San Francisco Judicial District; in Santa Clara County, the San Jose-Milpitas Judicial District; and in Ventura County, the Ventura Judicial District.

120.1. This chapter shall be implemented in four phases. The first phase shall commence July 1, 1977. The last phase shall terminate June 30, 1979.

The four phases shall be:

(a) From July 1, 1977, to September 30, 1977. During this time the advisory committee shall be appointed and shall convene, and the experimental and other recordkeeping districts shall be designated. Although neither the procedures in experimental districts as set

forth in Article 4 (commencing with Section 121) of this chapter nor the recordkeeping and evaluation procedures as set forth in Article 5 (commencing with Section 122) of this chapter shall be in effect during this time, preliminary preparations for the implementation of the procedures in Article 4 (commencing with Section 121) shall be made and preparation for the full implementation of recordkeeping procedures in Article 5 (commencing with Section 122) on October 1, 1977, shall be made during this time.

(b) From October 1, 1977, to March 31, 1978. During this time data shall be accumulated as provided in Sections 122 and 122.1. The procedures in experimental districts as set forth in Article 4 (commencing with Section 121) will not be in effect, but preparation for their full implementation beginning April 1, 1978, shall be made. This preparation shall include the establishing of administrative guidelines, the printing of all forms and manuals, and the training of personnel.

(c) From April 1, 1978, to March 31, 1979. During this time all programs and procedures mandated in this chapter shall be in effect. The procedures in experimental districts set forth in Article 4 (commencing with Section 121), and the recordkeeping set forth in Article 5 (commencing with Section 122) shall terminate after March 31, 1979.

(d) From April 1, 1979 to June 30, 1979. During this time the advisory committee and the Department of Consumer Affairs shall complete their report to the Legislature.

120.2. Notwithstanding any other provision of law, the Judicial Council shall provide by rule for procedures in the experimental districts which change or modify existing law. To the extent the existing law contained in Chapter 5A (commencing with Section 116) is not modified or changed by rule, it shall apply in the experimental districts. It shall be the policy of the rules promulgated by the Judicial Council that the convenience of natural persons shall, to the extent possible, prevail over the convenience of other litigants.

120.3. The Department of Consumer Affairs shall formulate and distribute to all small claims courts within the project districts a manual on small claims court rules and procedures, explaining how to fill out the necessary forms, how to pursue or defend against a claim, how to appeal a judgment, how to execute after judgment, and how to protect property that is exempt from execution. The manuals shall be distributed at no cost to litigants in small claims actions and to the general public.

Article 4. Procedures in Experimental Project Districts

121. Jurisdiction and venue shall be the same as in other small claims court districts.

121.1. Commencing with the date of implementation of the third phase of this chapter, as set forth in Section 120.1, the Department of Consumer Affairs, in cooperation with the Judicial Council, shall,

through public service announcements donated by the media and other dissemination of information, seek to inform the public in the project districts of the establishment and availability of the new programs and procedures mandated in this article.

121.2. The small claims court in the experimental districts shall make available to litigants night and Saturday sessions. The frequency of such sessions shall be specified in the rules promulgated by the Judicial Council and shall initially be a minimum frequency of one night and one Saturday session each month, but such frequency may be reduced if the litigant demand does not justify such use.

121.3. The Judicial Council shall provide by rule for the utilization of bilingual clerical staff and courtroom interpreters. Interpreters shall be provided and may be provided on an on-call basis.

121.4. Small claims actions in the experimental districts shall be commenced, heard, and determined pursuant to rules and forms adopted by the Judicial Council. All forms, notices, and documents to be used by, or served on, litigants shall be made available in English, Spanish, and when feasible, other languages spoken in the experimental districts by a significant proportion of the population of the district. The forms, notices, documents, and manuals shall be composed in clear and concise language utilizing nontechnical language which persons without legal training can readily understand.

121.5. The Judicial Council shall by rule require the clerk or deputy clerk to inform the claimant of all of the following:

(a) The availability of night and Saturday sessions.

(b) The role and availability of the legal adviser or appropriate mediation agency, where applicable.

(c) The availability of interpreters.

121.6. The Judicial Council shall by rule require the clerk or deputy clerk to advise defendants of all of the following:

(a) The availability of night and Saturday sessions.

(b) The role and availability of the legal adviser or appropriate mediation agency, where applicable.

(c) The availability of interpreters.

(d) The availability of venue change procedures.

(e) The authority of the court to allow payment schedules for judgments where applicable.

121.7. The Judicial Council shall provide by rule for change of venue for substantial hardship upon either parties or witnesses.

121.8. The Judicial Council shall provide by rule for the establishment of three different systems of litigant or court assistance, one in each experimental district. The systems shall involve the following concepts:

(a) A law clerk to provide assistance to the court.

(b) Two small claims legal advisers who shall be members of the State Bar who will operate independently of the courts to directly

assist litigants, but who may not appear in court to act as advocates for any party.

(c) A small claims court postfiling referral service to a court-designated mediation agency.

Article 5. Data Collection and Evaluation

122. In addition to the regular docket or register of actions entries mandated for small claims courts, the entries in project districts shall include the time of day of the trial as stated in the order (whether regular, night, or Saturday) and the date of the revised order, if there be one, and the date and time of trial as stated in the revised order.

122.1. In addition to the recordkeeping set forth in Section 122, recordkeeping systems shall be established in representative districts selected by the Judicial Council with the advice of the Department of Consumer Affairs and the concurrence of the selected municipal court and in the project districts to provide retrieval of information pertaining to:

(a) Total number of complaints filed in small claims court;

(b) Total number of complaints filed by corporations, other business, governmental agencies, and natural persons respectively as plaintiffs, against each type of defendant similarly classified;

(c) For each of the combinations enumerated in (b)

(1) The amount claimed in increments of one hundred dollars ($100); and the type of complaint, including, but not limited to, the following:

(a) Landlord-tenant;

(b) Consumer goods;

(c) Consumer services;

(d) Consumer credit;

(e) Consumer loans

(2) Disposition of the case, whether by:

(A) Judgment after trial for plaintiff;

(B) Judgment after trial for defendant;

(C) Settlement and terms thereof;

(D) Judgment for plaintiff after default;

(E) Judgment for defendant after default;

(F) Dismissal of the case, whether because of

(i) Lack of jurisdiction;

(ii) Defective service;

(iii) Nonappearance of plaintiff;

(iv) Other (specify).

(3) The amount of the judgment, in increments of one hundred dollars ($100).

(d) For each case filed, name of persons appearing for the parties;

(e) For any plaintiff filing 12 or more cases in small claims court during the effective period of this section, number of cases filed by that party, type of judgment (whether after trial, by default, or settlement) and total value of the judgments awarded to that party;

(f) Number of cases filed by and number of defaults in cases filed by corporate plaintiffs, other business plaintiffs, governmental agency plaintiffs, and individual plaintiffs respectively against in-county natural person defendants and out-of-county natural person defendants, respectively.

(g) For each case filed, whether the case was filed as part of a group claim (i.e., plaintiff filed more than one complaint at the same time);

(h) Number of Spanish-surnamed natural persons named as plaintiffs and number named as defendants in small claims courts;

122.2. At the end of two years, the Department of Consumer Affairs and the advisory committee shall provide the Legislature a report. This report shall evaluate experimental programs in reference to the purposes set forth in Section 118 and shall propose further action. The report shall include discussions of the following:

(a) Change in relative proportion of natural person plaintiffs to corporate, governmental, and other business, plaintiffs after initiation of experimental programs;

(b) Change in absolute number of claims filed after initiation of experimental programs by natural person plaintiffs; and by corporate, governmental and business plaintiffs;

(c) Change in relative proportion of Spanish-speaking plaintiffs to English-speaking plaintiffs after initiation of experimental programs;

(d) Change in number of defaults entered against English-speaking natural person defendants in the small claims court after initiation of experimental programs;

(e) Change in number of defaults entered against Spanish-speaking natural person defendants in the small claims court after initiation of experimental programs;

(f) Change in amount of judgments awarded against natural person defendants after initiation of experimental programs;

(g) Number of natural person litigants requesting night and number requesting Saturday sessions;

(h) Total number of litigants requesting night and total number requesting Saturday sessions;

(i) Number of litigants requesting interpreters and which languages were requested;

(j) Number of litigants requesting changes of venue.

(k) Change in court time spent per proceeding after initiation of experimental programs;

(*l*) Change in court expenses per proceeding after initiation of experimental programs.

SEC. 2. This act shall become operative on July 1, 1977, and shall continue in force until June 30, 1979, at which time it shall be repealed.

There are no state-mandated local costs within the meaning of Section 2231 of the Revenue and Taxation Code imposed on local governmental entities in 1976–1977 by this act. However, there are state-mandated local costs in this act in 1977–1978 and subsequent

years that require reimbursement under Section 2231 of the Revenue and Taxation Code which can be handled in the regular budget process.

CHAPTER 1288

An act to amend Sections 77, 83, 117, 396a, 904.2, 906, and 1060 of, to add Sections 85, 86, 87, 88, and 89 to, and to repeal Article 2 (commencing with Section 85), Article 3 (commencing with Section 103a) of Chapter 5 of Title 1 of Part 1, and Sections 904.3, 904.4, 905, and 910 of, the Code of Civil Procedure, to amend Section 71341 of the Government Code, and to amend Sections 1462 and 1462.1 of, and to repeal Section 1425 of, the Penal Code, relating to jurisdiction.

[Approved by Governor September 27, 1976 Filed with Secretary of State September 28, 1976]

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

SECTION 1. Section 77 of the Code of Civil Procedure is amended to read:

77. (a) There is an appellate department of the superior court in every county and city and county which has one or more municipal or justice courts.

(b) The appellate department in a county in which there is only one judge of the superior court shall consist of such judge who shall be the presiding judge and two additional judges who shall be designated by the Chairman of the Judicial Council. Each additional judge shall be a judge of the superior court of another county or a judge retired from the superior court or court of higher jurisdiction in this state.

(c) The appellate department in a county with two judges of the superior court shall consist of such judges, one of whom shall be designated as presiding judge by the Chairman of the Judicial Council, and one additional judge designated by the Chairman of the Judicial Council. Such additional judge shall be a judge of the superior court of another county or a judge retired from the superior court or court of higher jurisdiction in this state.

(d) The appellate department in a county with three or more judges of the superior court shall consist:

(i) Of three judges; or

(ii) When there are 50 or more judges of municipal courts in the county and the Chairman of the Judicial Council finds it necessary, of four judges.

Each of such judges under this subdivision (d) shall be designated from among the judges of the court by the Chairman of the Judicial Council. The Chairman of the Judicial Council shall also designate one of such judges as the presiding judge of such department. No

more than three of the judges so designated shall participate in the hearing or decision of any case in such department. Where there are four judges of such department, the presiding judge shall designate the three judges who shall so participate.

(e) In addition to their other duties, the judges designated as members of the appellate department of the superior court shall serve for the period specified in the order of designation. Whenever a judge is designated to serve in the appellate department of the superior court of a county other than the county in which such judge was elected or appointed as a superior court judge, or if he is retired, in a county other than the county in which he resides, he shall receive from the county to which he is designated his expenses for travel, board, and lodging. If the judge is out of his county overnight or longer, by reason of the designation, such judge shall be paid a per diem allowance in lieu of expenses for board and lodging in the same amounts as are payable for such purposes to justices of the Supreme Court under the rules of the State Board of Control. In addition, a retired judge shall receive from the state and the county to which he is designated, for the time so served, amounts equal to that which he would have received from each if he had been assigned to the superior court of the county.

(f) The concurrence of two judges of the appellate department of the superior court shall be necessary to render the decision in every case in, and to transact any other business except such as may be done at chambers by the presiding judge of, such department. The presiding judge shall convene such department at such times as may be necessary. He shall also supervise its business and transact such thereof as may be done at chambers.

(g) Every appellate department under this section shall have jurisdiction on appeal from the municipal and justice courts within the county or city and county in all cases in which an appeal may be taken to the superior court as is now or may hereafter be provided by law, except such appeals as require a retrial in the superior court. The powers of each appellate department shall be the same as are now or may hereafter be provided by law or rule of the Judicial Council relating to appeals to the superior courts.

(h) The Judicial Council may promulgate rules, not inconsistent with law, governing the practice and procedure and the disposition of the business of such appellate departments, or of each class thereof as provided in subdivisions (b), (c) and (d) of this section, respectively.

SEC. 2. Section 83 of the Code of Civil Procedure is amended to read:

83. The jurisdiction of municipal and justice courts is the same and concurrent.

SEC. 3. Article 2 (commencing with Section 85) of Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure is repealed.

SEC. 4. Section 85 is added to the Code of Civil Procedure, to read:

85. If the judgment or order in a municipal court or justice court in any action or proceeding in which the defendant has appeared is for the payment of money by the defendant, he shall pay the same immediately or at any time and upon such terms and conditions, including installment payments, which the court may prescribe. In any determination regarding the imposition of terms and conditions upon the payment of the judgment, the court shall consider any factors which would be relevant to the determination of a claim for exemption pursuant to Chapter 1 (commencing with Section 681) of Title 9 of Part 2 or the examination of a debtor pursuant to Chapter 2 (commencing with Section 714) of Title 9 of Part 2.

SEC. 5. Section 86 is added to the Code of Civil Procedure, to read:

86. (a) Each municipal and justice court shall have original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to five thousand dollars ($5,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except such courts shall have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed five thousand dollars ($5,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed five thousand dollars ($5,000).

(3) In actions to cancel or rescind a contract when such relief is sought in connection with an action to recover money not exceeding five thousand dollars ($5,000) or property of a value not exceeding five thousand dollars ($5,000), paid or delivered under, or in consideration of, such contract; in actions to revise a contract where such relief is sought in an action upon such contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer where the rental value is six hundred dollars ($600) or less per month and the whole amount of damages claimed is five thousand dollars ($5,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of such liens is five thousand dollars ($5,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 1181) of Title 4 of Part 3 of this code where the amount of such liens is five thousand dollars ($5,000) or less; provided, that where an action to enforce any such lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of such liens sought to be foreclosed against the same property by

action or actions in a municipal or justice court aggregates an amount in excess of five thousand dollars ($5,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order such action or actions pending therein transferred to the proper superior court. Upon the making of such order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver in aid of execution as provided in subdivision 4 of Section 564; to charge the interest of a debtor partner with payment of the unsatisfied amount of any judgment rendered by such court in the manner provided in Section 15028 of the Corporations Code, or any amendment thereof, and in such cases to appoint a receiver and to make any order or perform any act mentioned or authorized in such section; in proceedings under Section 689, or any amendments thereof, to determine title to personal property seized in an action pending in, or upon execution issued by, such court.

(9) In all actions under Section 720 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding five thousand dollars ($5,000) or the debt denied does not exceed five thousand dollars ($5,000).

(b) Each municipal and justice court shall have jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than five thousand dollars ($5,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

SEC. 6. Section 87 is added to the Code of Civil Procedure, to read:

87. Where a corporation is a party in the municipal or justice court it may appear through a director, an officer, or an employee, whether or not such person is an attorney at law.

SEC. 7. Section 88 is added to the Code of Civil Procedure, to read:

88. Clerks of justice courts, in addition to the other powers conferred upon them by law, shall have power to administer and certify oaths to affidavits, and all papers, documents or instruments used in, or in connection with, the civil actions or proceedings in such justice courts and to issue summons and other writs and notices in civil actions in said courts in the name of the judge before whom the same is pending or out of whose court the same is issued.

SEC. 8. Section 89 is added to the Code of Civil Procedure, to read:

89. The summons, execution, and every other paper made or issued by a judge of a justice court, except a subpoena, must be issued without a blank left to be filled by another, otherwise it is void.

SEC. 9. Article 3 (commencing with Section 103a) of Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure is repealed.

SEC. 10. Section 117 of the Code of Civil Procedure is amended to read:

117. All judges of the justice court and the municipal court shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of said jurisdiction shall be known and referred to as the small claims court; provided, that the jurisdiction of such court, when sitting as a small claims court, shall be confined to cases for the recovery of money only where the amount claimed does not exceed five hundred dollars ($500), except that a justice or municipal court judge sitting as a small claims court shall also have jurisdiction in proceedings in unlawful detainer after default in rent for residential property where the term of tenancy is not greater than month to month, and where the whole amount claimed is five hundred dollars ($500) or less.

Such courts shall have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

Venue in such actions shall be the same as for civil actions filed in justice or municipal court.

SEC. 10.5. Section 117 of the Code of Civil Procedure is amended to read:

117. All judges of the justice court and the municipal court shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of said jurisdiction shall be known and referred to as the small claims court; provided, that the jurisdiction of such court, when sitting as a small claims court, shall be confined to cases for the recovery of money only where the amount claimed does not exceed seven hundred fifty dollars ($750), except that a justice or municipal court judge sitting as a small claims court shall also have jurisdiction in proceedings in unlawful detainer after default in rent for residential property where the term of tenancy is not greater than month to month, and where the whole amount claimed is seven hundred fifty dollars ($750) or less.

Such courts shall have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the

tax is not contested by the defendant.

Venue in such actions shall be the same as for civil actions filed in justice or municipal court.

SEC. 11. Section 396a of the Code of Civil Procedure is amended to read:

396a. In all actions and proceedings commenced in a justice or municipal court which are subject to the provisions of Sections 1812.10 and 2984.4 of the Civil Code, plaintiff shall state facts in the complaint, verified by his oath, or the oath of his attorney, or in an affidavit of the plaintiff or of his attorney filed with the complaint, showing that the action has been commenced in the proper court for the trial of such action or proceeding, and showing that the action is subject to the provisions of Sections 1812.10 and 2984.4 of the Civil Code. When such affidavit is filed with the complaint, a copy thereof must be served with the summons. Except as herein provided, if such complaint or affidavit be not so filed, no further proceedings shall be had in the action or proceeding, except to dismiss the same without prejudice. However, the court may, on such terms as may be just, permit such affidavit to be filed subsequent to the filing of the complaint, and a copy of such affidavit shall be served on the defendant and the time to answer or otherwise plead shall date from such service. If it appears from such complaint or affidavit, or otherwise, that the court in which such action or proceeding is commenced is not the proper court for the trial thereof, the court in which such action or proceeding is commenced, or a judge thereof, shall, whenever such fact appears, transfer it to such proper court, on its own motion, or on motion of the defendant, unless the defendant consents in writing, or in open court (such consent in open court being entered in the minutes or docket of the court), to the keeping of the action or proceeding in the court where commenced. If such consent be given, the action or proceeding may continue in the court where commenced. Notwithstanding the provisions of Section 1801.1 and subdivision (f) of Section 2983.7 of the Civil Code, such consent may be given by a defendant who is represented by counsel at the time the consent is given. In any such case where the transfer of the action or proceeding is ordered under the provisions of this paragraph, if summons is served prior to the filing of such action or proceeding in the court to which it is transferred, as to any defendant, so served, who has not appeared in the action or proceeding, the time to answer or otherwise plead shall date from service upon such defendant of written notice of such filing.

When it appears from such complaint or affidavit of the plaintiff that the court in which such action or proceeding is commenced is a proper court for the trial thereof, all proper proceedings may be had, and the action or proceeding may be tried therein; provided, however, that in such case a motion for a transfer of the action or proceeding may be made as in other cases, within the time, upon the grounds, and in the manner provided in this title, and if upon such

motion it appears that such action or proceeding is not pending in the proper court, or should for other cause be transferred, the same shall be ordered transferred as provided in this title.

When any such action or proceeding is ordered transferred as herein provided, proceedings shall be had, and the costs and fees shall be paid, as provided in Sections 398 and 399 of this code.

SEC. 12. Section 904.2 of the Code of Civil Procedure is amended to read:

904.2. An appeal may be taken from a municipal or justice court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, or (2) a judgment of contempt which is made final and conclusive by Section 1222.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order changing or refusing to change the place of trial.

(d) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(e) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(f) From an order discharging or refusing to discharge an attachment.

(g) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(h) From an order appointing a receiver.

(i) From a judgment of the small claims court as provided in Chapter 5A (commencing with Section 116) of Title 1 of Part 1 of this code.

SEC. 13. Section 904.3 of the Code of Civil Procedure is repealed.

SEC. 14. Section 904.4 of the Code of Civil Procedure is repealed.

SEC. 15. Section 905 of the Code of Civil Procedure is repealed.

SEC. 16. Section 906 of the Code of Civil Procedure is amended to read:

906. Upon an appeal pursuant to Section 904.1 or 904.2, the reviewing court may review the verdict or decision and any intermediate ruling, proceeding, order or decision which involves the merits or necessarily affects the judgment or order appealed from or which substantially affects the rights of a party, including, on any appeal from the judgment, any order on motion for a new trial, and may affirm, reverse or modify any judgment or order appealed from and may direct the proper judgment or order to be entered, and may, if necessary or proper, direct a new trial or further proceedings to be had. The respondent, or party in whose favor the judgment was given, may, without appealing from such judgment, request the reviewing court to and it may review any of the foregoing matters for the purpose of determining whether or not the appellant was prejudiced by the error or errors upon which he relies

for reversal or modification of the judgment from which the appeal is taken. The provisions of this section do not authorize the reviewing court to review any decision or order from which an appeal might have been taken.

SEC. 17. Section 910 of the Code of Civil Procedure is repealed.

SEC. 18. Section 1060 of the Code of Civil Procedure is amended to read:

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

SEC. 19. Section 71341 of the Government Code is amended to read:

71341. Sessions of a municipal or justice court may be held at any place or places within the district for which the court is established. The board of supervisors shall designate by ordinance the place or places within the district where sessions of the justice court shall be held. It may change the places if public convenience requires.

SEC. 20. Section 1425 of the Penal Code is repealed.

SEC. 21. Section 1462 of the Penal Code is amended to read:

1462. Each municipal and justice court shall have jurisdiction in all criminal cases amounting to misdemeanor, where the offense charged was committed within the county in which such municipal or justice court is established except those of which the juvenile court is given jurisdiction and those of which other courts are given exclusive jurisdiction. Each municipal and justice court shall have exclusive jurisdiction in all cases involving the violation of ordinances of cities or towns situated within the district in which such court is established.

SEC. 22. Section 1462.1 of the Penal Code is amended to read:

1462.1. The jurisdiction of the municipal and justice courts is the same and concurrent.

SEC. 23. 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

04072 29770 943

the duties, obligations, or responsibilities imposed on local government by this act can be accomplished with no additional cost to local government.

SEC. 24. Section 10 of this act shall be inoperative if Assembly Bill 3885 is enacted at the 1975–76 Regular Session.

SEC. 25. Section 10.5 of this act shall become operative only if Assembly Bill 3594 is enacted at the 1975–76 Regular Session, in which case Section 10 of this act shall be inoperative.

CHAPTER 1289

An act to add Chapter 5A (commencing with Section 116) to Title 1 of Part 1 of, and to repeal Chapter 5A (commencing with Section 116) of Title 1 of Part 1 of, the Code of Civil Procedure, relating to small claims courts.

[Approved by Governor September 27, 1976 Filed with Secretary of State September 28, 1976.]

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

SECTION 1. Chapter 5A (commencing with Section 116) of Title 1 of Part 1 of the Code of Civil Procedure is repealed.

SEC. 2. Chapter 5A (commencing with Section 116) of Title 1 of Part 1 is added to the Code of Civil Procedure, to read:

CHAPTER 5A. SMALL CLAIMS COURT

116. In each justice and municipal court there shall be a small claims division. The Judicial Council shall provide by rule for the practice and procedure and for the forms and use in proceedings in such division consistent with the provisions of this chapter. Each small claims division may formulate and distribute to litigants and the public a manual on small claims court rules and procedures. The manual shall explain how to fill out the necessary forms, how to determine the proper court to hear the matter, how to take defaults and have them set aside, how to pursue or defend against claims, how to appeal, how to collect after judgment, how to protect property that is exempt from execution, and such other matters as the court deems necessary or desirable.

116.2. The small claims division shall have jurisdiction in actions:

(a) For recovery of money only where the amount of the demand does not exceed seven hundred fifty dollars ($750);

(b) To enforce payment of delinquent unsecured personal property taxes in an amount not to exceed seven hundred fifty dollars ($750), if the legality of the tax is not contested by the defendant;

(c) In unlawful detainer, after default in rent for residential

property, where the term of tenancy is not greater than month to month and the amount claimed does not exceed seven hundred fifty dollars ($750).

116.4. An action shall be commenced by the plaintiff's filing, in person or by mail with the judge or clerk of the small claims division, a claim under oath setting forth: the name and address of the defendant; the amount and the basis of the claim; and that the plaintiff has demanded payment and, in applicable cases, the possession of the property; that the defendant has failed or refused to pay, and where applicable, has refused to surrender the premises; and that the plaintiff understands that the judgment on his claim will be conclusive without right of appeal by him. The judge or clerk shall thereupon (a) sign an order directing a defendant who resides within the county in which the action is filed, to appear on a hearing date not more than 40 days nor less than 10 days from the date of the order or, if the defendant resides outside of the county in which the action is filed, to appear on a hearing date not more than 70 nor less than 30 days from the date of the order, (b) cause a copy of any claim and order to be mailed to him by any form of mail providing for a return receipt, or served upon him in the manner authorized by law for the service of a summons, and (c) inform the plaintiff of a specified hearing date and direct him to appear on that date with witnesses and documents to prove his claim. Service shall be deemed complete on the date of personal service, or on the date that the defendant signs the mail return receipt, or 10 days after the mailing required by Section 415.20, or upon the presentation of other competent evidence to the court, , whichever is applicable. If the service of the claim and order upon the defendant is not completed at least five days prior to the hearing date where the defendant resides within the county in which the action is brought, or at least 15 days prior to the hearing date where the defendant resides outside the county in which the action is brought, the court shall not proceed on the hearing date, unless the defendant personally appears and does not request a continuance. The plaintiff in such case may apply to the judge or the clerk for a new order setting a new date for the hearing, unless the defendant has personally appeared and requested a continuance, in which case no further service of the claim and order upon him shall be required, but the court must, upon the defendant's request, continue the date of the hearing for not less than 10 days.

116.6. Venue in such actions shall be the same as for civil actions filed in justice or municipal court.

116.7. Sessions of the small claims court may be scheduled at any time and on any day, including Saturdays, but excluding holidays. They may also be scheduled at any public building within the judicial district, including places outside the courthouse.

116.8. (a) No formal pleading other than the claim and order are necessary. The defendant may file a claim in the same proceeding in an amount not to exceed seven hundred fifty dollars ($750). In the

event the defendant files such a claim in the court, he shall serve a copy of his claim on the plaintiff at least five days before the hearing date, unless the plaintiff has served him 10 days or less before the hearing date in which case he shall serve a copy of his claim at least one day before the hearing date. Defendant shall file and serve his claim in the manner provided for filing and serving a claim under Section 116.4.

(b) If defendant has a claim against plaintiff in an amount over the jurisdiction of the small claims court as set forth in Section 116.2, but of a nature which would be the subject of a cross-complaint under the rules of pleading and practice governing the superior court, then defendant may commence an action against plaintiff in a court of competent jurisdiction and file with the small claims court wherein plaintiff has commenced his action, at or before the time set for the trial of said small claims action, an affidavit setting forth the facts of the commencement of such action by such defendant. He shall attach to such affidavit a true copy of the complaint so filed by defendant against plaintiff, and pay to the clerk of the small claims court the sum of one dollar ($1) for a transmittal fee, and shall deliver to plaintiff in person a copy of the affidavit and complaint at or before the time above stated. Thereupon the small claims court shall order that the small claims court action shall be transferred to the court set forth in the affidavit, and shall transmit all files and papers in the small claims actions to such other court, and the actions shall then be tried together in such other court.

The plaintiff in the small claims action shall not be required to pay to the clerk of the court to which the action is so transferred any transmittal, appearance, or filing fee in said action, but shall be required to pay the filing and any other fee required of a defendant if he appears in the action filed against him.

117. The hearing and disposition of small claims actions shall be informal, the object being to dispense justice promptly between the parties. The parties shall have the right to offer evidence by witnesses at the hearing or, with the permission of the court, at another time. The judge may consult witnesses informally and otherwise investigate the controversy. If the defendant fails to appear, the judge shall still require plaintiff to present evidence to prove his claim. The judge shall give judgment and make such orders as to time of payment or otherwise as he deems to be just and equitable for disposition of the controversy. The provisions of Section 579 of this code may be applied.

117.1. The claim described in Section 116.2 shall be on simple nontechnical forms approved or adopted by the Judicial Council. Such forms shall inform the claimant that he cannot be represented by an attorney and that he has no right of appeal from a judgment of the small claims court.

117.3. When there are two or more defendants and one or more of them resides outside the county in which the action is brought, the date for the appearance of all the defendants shall not be more than

30 days from the date of the order to appear.

117.4. No attorney at law or other person than the plaintiff and the defendant shall take any part in the filing or the prosecution or defense of such litigation in small claims court, unless the attorney is appearing to prosecute or defend an action by or against himself, or by or against a partnership in which he is a general partner and in which all the partners are attorneys, or by or against a professional corporation of which he is an officer or director and of which all other officers and directors are attorneys at law. Nothing herein shall prevent an attorney from rendering advice to a party to such litigation, either before or after the commencement of such an action; nor shall anything herein prevent an attorney from testifying to facts of which he has personal knowledge and about which he is competent to testify. However, if the court determines that a party does not speak or understand the English language sufficiently to comprehend the proceedings or give testimony, or cannot properly present his own case and needs assistance in so doing, the court may permit another person (other than an attorney at law) to assist such party.

117.5. No claim shall be filed by or prosecuted in such small claims court by the assignee of such claim. Nothing in this section shall prevent the filing or prosecution of a claim by a trustee in bankruptcy in the exercise of his duties as trustee, or by the holder of a conditional sales contract who has purchased such contract for his portfolio of investments and who is not an assignee for the purpose of collection.

117.6. The small claims court shall not hear more than six claims by any plaintiff in any single court day.

117.7. No attachment or garnishment shall issue from the small claims division. Execution may issue in the manner prescribed in Title 9 (commencing with Section 681) of Part 2, and judgment may be enforced in the manner provided in Section 1174. However, enforcement of the judgment is automatically stayed, without the filing of a bond by the defendant, until the expiration of time for appeal and, if an appeal is taken, until the appeal is determined.

117.8. (a) The judgment shall be conclusive upon the plaintiff. The defendant may appeal the judgment to the superior court in the county in which the matter was heard, provided that, if the defendant seeks any affirmative relief by way of a claim in the small claims court, he shall not have the right to appeal from the judgment on the claim.

(b) If the defendant did not appear at the hearing in the small claims court he shall have filed, as a prerequisite to appeal, within 20 days after receipt of actual notice of entry of judgment, a motion in the small claims court to vacate the judgment and the motion shall have been denied or not decided within 60 days after it was filed.

117.9. If the judgment or order be against the defendant, or cross-defendant he shall pay the same forthwith or at any time and upon such terms and conditions as the judge shall prescribe.

03885 297170 963

Immediately upon receipt of payment of the judgment, the judgment creditor or his assignee shall file with the court an acknowledgment of satisfaction of judgment. Any judgment creditor or assignee who, after payment in full of the judgment, and after written demand by the judgment debtor fails without just cause for a period of 15 days to execute, and file such acknowledgment of satisfaction with the court is liable to the judgment debtor or his grantees or heirs for all damages which he or they may sustain by reason of such failure and shall also forfeit to him or them the sum of fifty dollars ($50).

117.10. On appeal the action shall be tried anew. The Judicial Council shall prescribe by rule the practice and procedure on appeal and the time and manner in which the record on appeal shall be prepared and filed. Such rules shall be consistent with subdivisions (a) and (b) of Section 117.8. The defendant shall pay the same filing fee as for the appeal of a civil action from a justice court. No fee shall be charged to the plaintiff in the small claims action for the filing of any documents in the superior court.

118.1. The judgment of the superior court shall be final and not appealable. If the judgment is affirmed in whole or in part or the appeal is dismissed, the defendant shall pay to the plaintiff the amount of the judgment as affirmed, together with interest and costs and the sum of fifteen dollars ($15) as an attorney's fee.

118.6. A fee of two dollars ($2) shall be charged and collected for the filing of the claim under oath for the commencement of any action; for each defendant to whom a copy of the claim is mailed by the clerk a fee of two dollars ($2) shall be charged and collected. Fees as provided in Section 72062 and 72065 of the Government Code shall be charged and collected by the clerk for the issuance of a writ of execution or an abstract of judgment. Except as otherwise provided for in this chapter, no other fee or charge shall be collected by any officer for any service rendered under this chapter, or for the taking of affidavits for use in connection with any action commenced under this chapter. All fees collected hereunder shall be deposited with the treasurer of the city and county or county under whose jurisdiction any such court shall exist.

118.7. Each small claims court shall make a reasonable effort to maintain and make available to the parties a list of interpreters, who are willing and able to aid parties in the small claims court for no fee, or for a fee, which is reasonable considering the size of the claims involved in such court. Such list shall include interpreters for all languages that require interpretation before the court, as determined by the court, in its discretion and in view of its experience. Failure to maintain such a list, or failure to have an interpreter for a particular language on such list, shall not invalidate any proceedings before the court.

SEC. 3. Nothing in this act shall be construed to invalidate the ruling in Gardiana v. San Leandro Smalls Claims Court (1976), 130 Cal. Rptr. 675.

0 3885 29 7 190 967

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 can be accomplished with no additional cost to local government.

CHAPTER 1290

An act to amend Section 84202 of the Government Code, relating to elections.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 84202 of the Government Code is amended to read:

84202. (a) Not later than 65 days after a measure has been qualified for the ballot, the proponent and each committee opposing a measure shall file a campaign statement, the closing date of which shall be the 58th day following the qualification of the measure.

(b) If any proposed measure does not qualify for the ballot, the proponent and each committee opposing a measure shall file a campaign statement within 65 days after the final deadline for circulating the petition, the closing date of which shall be the 58th day following the deadline.

SEC. 2. It is the intent of the Legislature, if this bill and Senate Bill No. 1362 are both chaptered and become effective January 1, 1977, and this bill is chaptered after Senate Bill No. 1362, that the amendments to Section 84202 of the Government Code in the form set forth in Section 1 of this act shall not become operative.

CHAPTER 1291

An act to amend Section 830.4 of the Penal Code, relating to peace officers.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 830.4 of the Penal Code, as amended by Chapter 147 of the Statutes of 1976, is amended to read:

830.4. (a) The following persons are peace officers while

engaged in the performance of the duties of their respective employments:

(1) Security officers of the California State Police Division.

(2) The Sergeant at Arms of each house of the Legislature.

(3) Bailiffs of the Supreme Court and of the courts of appeal.

(4) Guards and messengers of the Treasurer's office.

(5) The Director of the Department of Navigation and Ocean Development and employees of such department designated by him pursuant to Section 71.2 of the Harbors and Navigation Code.

(6) Members of a state university or college police department appointed pursuant to Section 24651 of the Education Code.

(7) The hospital administrator of a state hospital under the jurisdiction of the Department of Mental Hygiene or, on or after July 1, 1973, the State Department of Health, and police officers designated by him pursuant to Section 4312 of the Welfare and Institutions Code.

(8) Any railroad or steamboat company policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(9) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(10) Harbor policemen regularly employed and paid as such by a county, city, or district, and the port warden and special officers of the Harbor Department of the City of Los Angeles. However, notwithstanding the provisions of Section 171c, 171d, or 12027, such persons are not peace officers for purposes of such sections except when designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, as peace officers for such purposes.

(11) (A) Special officers of the Department of Airports of the City of Los Angeles commissioned by the city police commission.

(B) Any such officer so commissioned on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any officer so commissioned after July 6, 1973 shall have completed the course of instruction within 60 days after such commissioning. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(12) The chief of toll services, captains, lieutenants, and sergeants employed by the Department of Transportation on vehicular crossings pursuant to Chapter 13 (commencing with Section 23250) of Division 11 of the Vehicle Code.

(13) Persons employed as members of a security patrol of a school district pursuant to Section 15832 of the Education Code.

(14) Duly authorized federal employees, when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction such property is situated.

(15) Security guards of the County of Los Angeles.

(16) (A) Persons regularly employed and designated by the Board of Directors of the Monterey Peninsula Airport District as airport policemen.

(B) Any such person employed on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any person so employed after July 6, 1973, shall have completed the course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(17) Any person regularly employed as an airport security officer by any airport operated by the City and County of San Francisco, Orange County, or the County of San Joaquin if he meets the following requirements:

(A) If employed by the City and County of San Francisco or Orange County on or before July 6, 1973, he shall have completed the course of instruction required by Section 832 by September 1, 1973, or if employed after July 6, 1973, he shall have completed such course of instruction within 60 days after such employment. If employed by the County of San Joaquin on or before September 25, 1973, he shall have completed the course of instruction required by Section 832 by December 1, 1973; or if employed after September 25, 1973, he shall have completed such course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(B) He shall be commissioned as a peace officer by the police commission or the board of supervisors of the city and county, or county, as the case may be, operating the airport.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(D) In the case of any person regularly employed as an airport security officer by any such airport located in the County of San Mateo, he shall either be deputized by, or have the written consent of, the Sheriff of San Mateo County.

(18) Housing authority patrol officers employed by the City of Los Angeles or by the Housing Authority of the County of Contra Costa or by the Housing Authority of the County of Los Angeles.

(19) (A) Persons regularly employed and designated by the City of Fresno as airport security officers for the Fresno Air Terminal.

(B) Before exercising the powers of a peace officer, all persons so employed shall have satisfactorily completed the course of instruction so required by Sections 832 and 832.1.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(20) Any person regularly employed as an airport security officer by any airport operated by the City of Palm Springs if he meets the following requirements:

(A) He shall have satisfactorily completed the course of instruction required by Section 832.

(B) He shall be commissioned as a peace officer by the City Council of the City of Palm Springs.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(b) 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 with respect to persons or property the protection of which is the immediate duty of such officer.

SEC. 2. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties; and that there be no change in the status of individual peace officers or classes of peace officers for purposes of retirement, workmen's compensation or similar injury or death benefits, or other employee benefits.

CHAPTER 1292

An act to amend Section 830.4 of the Penal Code, relating to peace officers.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 830.4 of the Penal Code, as amended by Chapter 147 of the Statutes of 1976, is amended to read:

830.4. (a) The following persons are peace officers while engaged in the performance of the duties of their respective employments:

(1) Security officers of the California State Police Division.

(2) The Sergeant at Arms of each house of the Legislature.

(3) Bailiffs of the Supreme Court and of the courts of appeal.

(4) Guards and messengers of the Treasurer's office.

(5) The Director of the Department of Navigation and Ocean Development and employees of such department designated by him pursuant to Section 71.2 of the Harbors and Navigation Code.

(6) The hospital administrator of a state hospital under the jurisdiction of the Department of Mental Hygiene or, on or after July 1, 1973, the State Department of Health, and police officers designated by him pursuant to Section 4312 of the Welfare and Institutions Code.

(7) Any railroad or steamboat company policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(8) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(9) Harbor policemen regularly employed and paid as such by a county, city, or district, and the port warden and special officers of the Harbor Department of the City of Los Angeles. However, notwithstanding the provisions of Section 171c, 171d, or 12027, such persons are not peace officers for purposes of such sections except when designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, as peace officers for such purposes.

(10) (A) Special officers of the Department of Airports of the City of Los Angeles commissioned by the city police commission.

(B) Any such officer so commissioned on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any officer so commissioned after July 6, 1973, shall have completed the course of instruction within 60 days after such commissioning. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(11) The chief of toll services, captains, lieutenants, and sergeants employed by the Department of Transportation on vehicular crossings pursuant to Chapter 13 (commencing with Section 23250) of Division 11 of the Vehicle Code.

(12) Persons employed as members of a security patrol of a school

district pursuant to Section 15832 of the Education Code.

(13) Duly authorized federal employees, when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction such property is situated.

(14) Security guards of the County of Los Angeles.

(15) (A) Persons regularly employed and designated by the Board of Directors of the Monterey Peninsula Airport District as airport policemen.

(B) Any such person employed on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any person so employed after July 6, 1973, shall have completed the course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(16) Any person regularly employed as an airport security officer by any airport operated by the City and County of San Francisco, Orange County, or the County of San Joaquin if he meets the following requirements:

(A) If employed by the City and County of San Francisco or Orange County on or before July 6, 1973, he shall have completed the course of instruction required by Section 832 by September 1, 1973, or if employed after July 6, 1973, he shall have completed such course of instruction within 60 days after such employment. If employed by the County of San Joaquin on or before September 25, 1973, he shall have completed the course of instruction required by Section 832 by December 1, 1973; or if employed after September 25, 1973, he shall have completed such course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(B) He shall be commissioned as a peace officer by the police commission or the board of supervisors of the city and county, or county, as the case may be, operating the airport.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(D) In the case of any person regularly employed as an airport security officer by any such airport located in the County of San Mateo, he shall either be deputized by, or have the written consent

of, the Sheriff of San Mateo County.

(17) Housing authority patrol officers employed by the City of Los Angeles or by the Housing Authority of the County of Contra Costa or by the Housing Authority of the County of Los Angeles.

(18) (A) Persons regularly employed and designated by the City of Fresno as airport security officers for the Fresno Air Terminal.

(B) Before exercising the powers of a peace officer, all persons so employed shall have satisfactorily completed the course of instruction so required by Sections 832 and 832.1.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when inpursuit of any offender or suspected offender.

(19) Any person regularly employed as an airport security officer by any airport operated by the City of Palm Springs if he meets the following requirements:

(A) If employed by the City of Palm Springs on or before July 1, 1976, he shall have completed the course of instruction required by Section 832 by September 1, 1976, or if employed after July 1, 1976, he shall have completed the course of instruction required by Section 832 within 60 days of employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer.

(B) He shall be commissioned as a peace officer by the City Council of the City of Palm Springs.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(b) 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 with respect to persons or property the protection of which is the immediate duty of such officer.

SEC. 2. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers and duties; and that there be no change in the status of individual peace officers or classes of peace officers for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

CHAPTER 1293

An act to amend Section 52 of, and to add Section 51.7 to, the Civil Code, and to amend Section 1419 of the Labor Code, relating to civil rights.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. This act shall be known, and may be cited, as the Ralph Civil Rights Act of 1976.

SEC. 2. Section 51.7 is added to the Civil Code, to read:

51.7. All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, or position in a labor dispute.

SEC. 2.5. Section 52 of the Civil Code is amended to read:

52. (a) Whoever denies, or who aids, or incites such denial, or whoever makes any discrimination, distinction or restriction on account of sex, color, race, religion, ancestry, or national origin contrary to the provisions of Section 51 or 51.5 of this code, is liable for each and every such offense for the actual damages, and such amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than two hundred fifty dollars ($250), and such attorney's fees as may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51 or 51.5 of this code.

(b) Whoever denies the right provided by Section 51.7, or whoever aids, incites, or conspires in such denial, is liable for each and every such offense for the actual damages, and ten thousand dollars ($10,000) in addition thereto, suffered by any person denied such right. In the case of multiple offenders, such ten-thousand-dollar ($10,000) fine shall be prorated between them.

(c) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights hereby secured, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate court by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice, as he

02986 297335 996

deems necessary to insure the full enjoyment of the rights herein described.

(d) Whenever an action has been commenced in any court seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on account of race, color, religion, sex, or national origin, the Attorney General for or in the name of the people of the State of California may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance. In such action the people of the State of California shall be entitled to the same relief as if it had instituted the action.

(e) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved party.

SEC. 3. Section 1419 of the Labor Code as amended by Chapter 431 of the Statutes of 1975, is amended to read:

1419. The commission shall have the following functions, powers and duties:

(a) To establish and maintain a principal office and such other offices within the state as the Legislature authorizes.

(b) To meet and function at any place within the state.

(c) 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.

(d) To obtain upon request and utilize the services of all governmental departments and agencies.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this part.

(f) (1) To receive, investigate and pass upon complaints alleging discrimination in employment because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, or sex.

(2) To receive, investigate, and pass upon complaints alleging a violation of Section 51 or 51.5 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(g) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath 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.

(h) 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, national origin, ancestry, physical handicap, medical condition, or sex, 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.

(i) 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, national origin, ancestry, physical handicap, medical condition, or sex.

(j) To investigate, approve, and certify equal employment opportunity programs proposed by a contractor to be engaged in pursuant to subdivision (b) of Section 1431, and to fix and collect such fees as are necessary for the cost of the investigation, approval or certification. The fees collected shall be paid into the General Fund of the State Treasury.

(k) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

SEC. 4. Section 1419 of the Labor Code is amended to read:

1419. (a) The commission shall have the following functions, powers and duties:

(1) To establish and maintain a principal office and such other offices within the state as may be deemed necessary.

(2) To meet and function at any place within the state.

(3) To appoint an executive secretary, and such hearing officers and clerks as are necessary to carry out the functions, powers, and duties as prescribed by this part.

(4) To adopt, promulgate, amend, and rescind rules and regulations to carry out the provisions of this part.

(5) To receive, investigate and pass upon complaints alleging a violation of Section 51 or 51.7 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(6) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath 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.

(7) To study and identify problem areas as demonstrated by caseload statistics, information obtained by public hearings, or other sources, and using the results thereof to establish priorities consistent with the purposes of this part to be followed by the chief in performing his or her function of preventing and eliminating discrimination in employment.

(8) 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, national origin, ancestry, physical handicap, medical condition,

or sex, 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.

(9) To review, approve, or disapprove all contracts negotiated by the chief with local communities, other state agencies and federal agencies for the purpose of preventing and eliminating unlawful employment discrimination.

(10) To periodically review with the chief the work of the division.

(11) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

(12) To establish a system of published opinions to serve as precedent in interpreting and applying Sections 1420, 1421, and 1423 as well as any other section of this part pursuant to which the commission is authorized to issue decisions, findings, or orders.

(b) The commission may also provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, religious creed, color, national origin, ancestry, physical handicap, medical condition, sex, or age which impair the rights of persons in such communities under the Constitution or laws of the United States or of this state. The services of the commission may be made available in cases of such disputes, disagreements, or difficulties only when, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby. The commission's services are to be made available only upon the request of an appropriate state or local public body, or upon the request of any person directly affected by any such dispute, disagreement, or difficulty.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 3124 are both chaptered and change Section 1419 of the Labor Code, and this bill is chaptered after Assembly Bill No. 3124, that the changes in Section 1419 proposed by both bills be given effect and incorporated in Section 1419 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill No. 3124 are both chaptered, both change Section 1419, and Assembly Bill No. 3124 is chaptered before this bill, in which case Section 3 of this act shall not become operative.

CHAPTER 1294

An act to amend Section 710 of the Code of Civil Procedure, relating to salary garnishment.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976]

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

SECTION 1. 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 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 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, 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 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 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 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.

(h) This section shall not be construed to authorize the withholding of earnings of a public officer or employee. Except as otherwise expressly provided by law, the earnings of a public officer or employee may be withheld for payment of a judgment only pursuant to Section 682.3.

SEC. 2. 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 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 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, 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 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 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 six dollars ($6) 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 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.

(h) This section shall not be construed to authorize the withholding of earnings of a public officer or employee. Except as otherwise expressly provided by law, the earnings of a public officer or employee may be withheld for payment of a judgment only pursuant to Section 682.3.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 1994 are both chaptered and amend Section 710 of the Code of Civil Procedure, and this bill is chaptered after Senate Bill No. 1994, that the amendments to Section 710 proposed by both bills be given effect and incorporated in Section 710 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 1994 are both chaptered, both amend Section 710, and Senate Bill No. 1994 is chaptered before this bill, in which case Section 1 of this act shall not become operative.

CHAPTER 1295

An act to amend Sections 18661.2, 18292, and 22458.2 of the Financial Code, relating to insurance.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 18661.2 of the Financial Code is amended to read:

18661.2. Credit disability insurance written pursuant to Sections 18661 and 18661.1 shall not provide indemnity against the risk of a borrower becoming disabled for a period of less than 14 days. Such insurance may provide indemnity for any single period of continuous disability of 14 days or longer, after which the risk may become compensable. In no event shall any such credit disability insurance provide for retroactive coverage to an earlier date based upon such disability having continued for a period stated in the policy, or for any other reason. Credit disability insurance, if made available by a licensee, shall be available on a monthly or annual premium basis, and the premium by the month shall not exceed a pro rata relationship to the annual premium. Credit disability insurance need not be offered for a period less than the term of the loan to which it is applicable and no such credit disability insurance shall be written for a period in excess of the term of the loan to which it is applicable.

SEC. 1.1. Section 18661.2 of the Financial Code is amended to read:

18661.2. Credit disability insurance written pursuant to Sections 18661 and 18661.1 shall not provide indemnity against the risk of a borrower becoming disabled for a period of less than 14 days. Such insurance may provide indemnity for any single period of continuous disability of 14 days or longer, after which the risk may become compensable. Such insurance may be offered with retroactive coverage to an earlier date based upon such disability having continued for a period stated in the policy, but if insurance with retroactive coverage is offered, it shall also be offered without retroactive coverage and the premium rate for each coverage shall be separately stated in writing to the borrower. Credit disability insurance, if made available by a licensee, shall be available on a monthly or annual premium basis, and the premium by the month shall not exceed a pro rata relationship to the annual premium. Credit disability insurance need not be offered for a period less than the term of the loan to which it is applicable and no such credit disability insurance shall be written for a period in excess of the term of the loan to which it is applicable.

SEC. 1.2. Section 18292 of the Financial Code, as added by Senate Bill No. 1793 of the 1975–76 legislative session, is amended to read:

18292. If credit disability insurance is provided pursuant to this division, it shall not provide indemnity against the risk of a borrower becoming disabled for a period of less than 14 days. Such insurance may provide indemnity for any single period of continuous disability of 14 days or longer, after which the risk may become compensable. In no event shall any such credit disability insurance provide for retroactive coverage to an earlier date based upon such disability having continued for a period stated in the policy, or for any other reason. Credit disability insurance, if made available by an industrial loan company, shall be available by on a monthly or annual premium basis, and the premium by the month shall not exceed a pro rata relationship to the annual premium. Credit disability insurance need not be offered for a period less than the term of the loan to which it is applicable and no such credit disability insurance shall be written for a period in excess of the term of the loan to which it is applicable.

SEC. 1.3. Section 18292 of the Financial Code, as added by Senate Bill No. 1793 of the 1975–76 legislative session, is amended to read:

18292. If credit disability insurance is provided pursuant to this division, it shall not provide indemnity against the risk of a borrower becoming disabled for a period of less than 14 days. Such insurance may provide indemnity for any single period of continuous disability of 14 days or longer, after which the risk may become compensable. Such insurance may be offered with retroactive coverage to an earlier date based upon such disability having continued for a period stated in the policy, but if insurance with retroactive coverage is offered, it shall also be offered without retroactive coverage, and the

premium rate for such coverage shall be separately stated in writing to the borrower. Credit disability insurance, if made available by an industrial loan company, shall be available on a monthly or annual premium basis, and the premium by the month shall not exceed a pro rata relationship to the annual premium. Credit disability insurance need not be offered for a period less than the term of the loan to which it is applicable and no such credit disability insurance shall be written for a period in excess of the term of the loan to which it is applicable.

SEC. 2. Section 22458.2 of the Financial Code is amended to read:

22458.2. Credit disability insurance written pursuant to Section 22458.1 shall not provide indemnity against the risk of a borrower becoming disabled for a period of less than 14 days. Such insurance may provide indemnity for any single period of continuous disability of 14 days or longer, after which the risk may become compensable. In no event shall any such credit disability insurance provide for retroactive coverage to an earlier date based upon such disability having continued for a period stated in the policy, or for any other reason. Credit disability insurance, if made available by a licensee, shall be available on a monthly or annual premium basis, and the premium by the month shall not exceed a pro rata relationship to the annual premium. Credit disability insurance need not be offered for a period less than the term of the loan to which it is applicable and no such credit disability insurance shall be written for a period in excess of the term of the loan to which it is applicable.

SEC. 2.1. Section 22458.2 of the Financial Code is amended to read:

22458.2. Credit disability insurance written pursuant to Section 22458.1 shall not provide indemnity against the risk of a borrower becoming disabled for a period of less than 14 days. Such insurance may provide indemnity for any single period of continuous disability of 14 days or longer, after which the risk may become compensable. Such insurance may be offered with retroactive coverage to an earlier date based upon such disability having continued for a period stated in the policy, but if insurance with retroactive coverage is offered, it shall also be offered without retroactive coverage, and the premium rate for such coverage shall be separately stated in writing to the borrower. Credit disability insurance, if made available by a licensee, shall be available on a monthly or annual premium basis, and the premium by the month shall not exceed a pro rata relationship to the annual premium. Credit disability insurance need not be offered for a period less than the term of the loan to which it is applicable and no such credit disability insurance shall be written for a period in excess of the term of the loan to which it is applicable.

SEC. 3. It is the intent of the Legislature that if this bill and Assembly Bill No. 3913 or Senate Bill No. 1793, or both, are chaptered and become effective January 1, 1977, Assembly Bill 3913 amends Section 18661.2 and Senate Bill 1793 repeals Division 7 (commencing

with Section 18000) of the Financial Code, 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 Assembly Bill No. 3913 are both chaptered and become effective January 1, 1977, both bills amend Section 18661.2 of the Financial Code, but Senate Bill No. 1793 is not chaptered or as chaptered does not affect that section, and this bill is chaptered after Assembly Bill No. 3913, the amendments proposed by both bills shall be given effect and incorporated in Section 18661.2 in the form set forth in Section 1.1 of this act. Therefore, if this bill and Assembly Bill No. 3913 are both chaptered and become effective January 1, 1977, both bills amend Section 18661.2 this bill is chaptered after Assembly Bill No. 3913, and Senate Bill No. 1793 is not chaptered or as chaptered does not affect that section, Section 1.1 of this act shall be operative and Sections 1, 1.2 and 1.3 of this act shall not become operative.

(2) If this bill and Senate Bill No. 1793 are both chaptered and become effective January 1, 1977, Senate Bill No. 1793 repeals Division 7 (commencing with Section 18000) of the Financial Code, but Assembly Bill No. 3913 is not chaptered or as chaptered does not amend Section 18661.2, and this bill is chaptered after Senate Bill No. 1793, the amendments proposed by both bills shall be given effect and incorporated in Section 18292 of the Financial Code in the form set forth in Section 1.2 of this act. Therefore, if this bill and Senate Bill No. 1793 are both chaptered and become effective January 1, 1977, Senate Bill 1793 repeals Division 7 (commencing with Section 18000) and this bill is chaptered after Senate Bill No. 1793, and Assembly Bill No. 3913 is not chaptered or as chaptered does not amend Section 18661.2 Section 1.2 shall be operative and Sections 1, 1.1 and 1.3 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 3913 and Senate Bill No. 1793 are all chaptered and become effective January 1, 1977, Senate Bill 1793 repeals Division 7 (commencing with Section 18000) and Assembly Bill No. 3913 amends Section 18661.2 of the Financial Code, and this bill is chaptered after Assembly Bill No. 3913 and Senate Bill No. 1793, the amendments proposed by all three bills shall be given effect and incorporated in Section 18292 of the Financial Code in the form set forth in Section 1.3 of this act. Therefore, if this bill and Assembly Bill No. 3913 and Senate Bill No. 1793 are all chaptered and become effective January 1, 1977, this bill is chaptered after Assembly Bill No. 3913 and Senate Bill No. 1793, Section 1.3 of this act shall be operative and Sections 1, 1.1 and 1.2 of this act shall not become operative.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 3913 are both chaptered and become effective January 1, 1977, both bills amend Section 22458.2 of the Financial Code, and this bill is chaptered after Assembly Bill No. 3913, that the amendments to Section 22458.2 proposed by both bills be given effect and incorporated in Section 22458.2 in the form set forth in Section 2.1 of

this act. Therefore, Section 2.1 of this act shall become operative only if this bill and Assembly Bill No. 3913 are both chaptered and become effective January 1, 1977, both amend Section 22458.2 and this bill is chaptered after Assembly Bill No. 3913, in which case Section 2 of this act shall not become operative.

CHAPTER 1296

An act to amend Sections 18003.1 and 18962 of, and to add Sections 18521, 18560, 18596, and 18948 to, the Financial Code, relating to premium finance agencies.

[Approved by Governor September 28, 1976 Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 18003.1 of the Financial Code is amended to read:

18003.1. "Premium finance agency" means any industrial loan company incorporated under this division which, by the terms of its authority to engage in the industrial loan business, is permitted to issue or sell investment certificates subject to the limitations set forth in Section 18948 and its business is limited to that set forth in Chapter 7 (commencing with Section 18900) of this division.

SEC. 1.5. Section 18521 is added to the Financial Code, to read:

18521. Each industrial loan company, other than a premium finance agency, which has issued and has outstanding thrift obligations shall, as a condition to its authority to conduct business under this division, participate as a member in Guaranty Corporation in accordance with this chapter and rules established by the Board of Directors of Guaranty Corporation.

SEC. 2. Section 18948 is added to the Financial Code, to read:

18948. A premium finance company may issue or sell investment certificates only (a) to its customers directly in connection with the financing of premiums for such customers, provided that the aggregate finance charges, including interest paid or not paid on such investment certificates, do not exceed those charges permitted under Section 18931 and (b) to any such institutional investors, governmental agency or instrumentality as the Commissioner of Corporations may designate by rule.

SEC. 3. Section 18596 is added to the Financial Code, to read:

18596. A premium finance company may issue or sell investment certificates only (a) to its customers directly in connection with the financing of premiums for such customers, provided that the aggregate finance charges, including interest paid or not paid on such investment certificates, do not exceed those charges permitted under Section 18626 and (b) to any such institutional investors,

governmental agency or instrumentality as the Commissioner of Corporations may designate by rule.

SEC. 4. Section 18560 is added to the Financial Code, to read:

18560. "Premium finance agency" means any industrial loan company incorporated under this division which, by the terms of its authority to engage in the industrial loan business, is permitted to issue or sell investment certificates subject to the limitations set forth in Section 18596 and its business is limited to that set forth in this chapter.

SEC. 5. Section 18962 of the Financial Code is amended to read:

18962. Each industrial loan company, other than a premium finance agency, which has issued and which has outstanding thrift obligations shall, as a condition to its authority to conduct business under this division, participate as a member in Guaranty Corporation in accordance with this chapter and rules to be established by the Board of Directors of Guaranty Corporation.

SEC. 6. It is the intent of the Legislature, if this bill and Senate Bill No. 1793 are both chaptered and become effective January 1, 1977, and Senate Bill No. 1793 repeals Division 7 (commencing with Section 18000) of the Financial Code, that the amendments of the Industrial Loan Law proposed by this act be given effect and incorporated in Sections 18521, 18560, and 18596 of the Financial Code as set forth in Sections 1.5, 3, and 4 of this act. Therefore, Sections 1.5, 3, and 4 of this act shall be operative only if this bill and Senate Bill No. 1793 are both chaptered and become effective January 1, 1977, in which case Sections 18003.1, 18948, and 18962 of the Financial Code as set forth in Sections 1, 2, and 5 of this act shall not become operative.

CHAPTER 1297

An act to amend Sections 10932, 10934, 10936, 10939, 10940, 10941, 10946, 10947, 10948, 25430.1, 25430.3, 25430.5, 25430.7, 25430.8, 25430.9, 25430.10, 25430.12, 25430.14, 25430.15, and 25430.16 of, to repeal and add Sections 10935 and 25430.4 to, and to add Chapter 1.2 (commencing with Section 22509) to Division 16.5 of the Education Code, relating to student records.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 10932 of the Education Code is amended to read:

10932. As used in this chapter:

(a) "Parent" means a natural parent, an adoptive parent, or legal guardian. If parents are divorced or legally separated, only the

parent having legal custody of the pupil may challenge the content of a record pursuant to Section 10941, offer a written response to a record pursuant to Section 10943, or consent to release records to others pursuant to Section 10946, provided, however, that either parent may grant consent if both parents have notified, in writing, the school or school district that such an agreement has been made. Whenever a pupil has attained the age of 18 years or is attending an institution of postsecondary education, the permission or consent required of, and the rights accorded to, the parents or guardian of the pupil shall thereafter only be required of, and accorded to, the pupil.

(b) "Pupil record" means any item of information directly related to an identifiable pupil, other than directory information, which is maintained by a school district or required to be maintained by any employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm or other means.

"Pupil record" shall not include informal notes related to a pupil compiled by a school officer or employee which remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute. For purposes of this subdivision, "substitute" means a person who performs the duties of the individual who made the notes on a temporary basis, and does not refer to a person who permanently succeeds the maker of the notes in his or her position.

(c) "Directory information" means one or more of the following items: student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous public or private school attended by the student.

(d) "School district" means any school district maintaining any of grades kindergarten through 12, any public school providing instruction in any of grades kindergarten through 12, the office of the county superintendent of schools, or any special school operated by the Department of Education.

(e) "Access" means a personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record.

SEC. 2. Section 10934 of the Education Code is amended to read:

10934. School districts shall notify parents in writing of their rights under this chapter upon the date of the pupil's initial enrollment, and thereafter at the same time as notice is issued pursuant to Section 10921. The notice shall be, insofar as is practicable, in the home language of the pupil. The notice shall take a form which reasonably notifies parents of the availability of the following specific information:

(a) The types of pupil records and information contained therein which are directly related to students and maintained by the institution.

(b) The position of the official responsible for the maintenance of each type of record.

(c) The location of the log or record required to be maintained pursuant to Section 10935.

(d) The criteria to be used by the district in defining "school officials and employees" and in determining "legitimate educational interest" as used in Section 10935 and paragraph (1) of subdivision (a) of Section 10947.

(e) The policies of the institution for reviewing and expunging those records.

(f) The right of the parent to access to pupil records.

(g) The procedures for challenging the content of pupil records.

(h) The cost, if any, which will be charged to the parent for reproducing copies of records.

(i) The categories of information which the institution has designated as directory information pursuant to Section 10944.

(j) Any other rights and requirements set forth in this chapter, and the right of the parent to file a complaint with the United States Department of Health, Education, and Welfare concerning an alleged failure by the district to comply with the provisions of Section 438 of the General Education Provisions Act (20 U.S.C.A. Sec. 1232g).

SEC. 3. Section 10935 of the Education Code is repealed.

SEC. 4. Section 10935 is added to the Education Code, to read:

10935. A log or record shall be maintained for each pupil's record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests therefor. Such listing need not include:

(a) Parents or pupils to whom access is granted pursuant to Section 10940 or paragraph (6) of subdivision (a) of Section 10947;

(b) Parties to whom directory information is released pursuant to Section 10944;

(c) Parties for whom written consent has been executed by the parent pursuant to Section 10946; or

(d) School officials or employees having a legitimate educational interest pursuant to paragraph (1) of subdivision (a) of Section 10947.

The log or record shall be open to inspection only by a parent and the school official, or his designee, responsible for the maintenance of pupil records, and to other school officials with legitimate educational interests in the records, and to the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency as defined in Public Law 93-380, and state educational authorities as a means of auditing the operation of the system.

SEC. 4.5. Section 10936 of the Education Code is amended to read:

10936. Any school district may make a reasonable charge in an amount not to exceed the actual cost of furnishing copies of any pupil

record; provided, however, that no charge shall be made for furnishing (1) up to two transcripts of former pupils' records or (2) up to two verifications of various records of former pupils. No charge may be made to search for or to retrieve any pupil record.

SEC. 5. Section 10939 of the Education Code is amended to read:

10939. Whenever a pupil transfers from one school district to another or to a private school, or transfers from a private school to a school district within the state, the pupil's permanent record or a copy thereof shall be transferred by the former district or private school upon a request from the district or private school where the pupil intends to enroll. Any school district requesting such a transfer of a record shall notify the parent of his right to receive a copy of the record and a right to a hearing to challenge the content of the record. The State Board of Education is hereby authorized to adopt rules and regulations concerning the transfer of records.

SEC. 6. Section 10940 of the Education Code is amended to read:

10940. Parents of currently enrolled or former pupils have an absolute right to access to any and all pupil records related to their children which are maintained by school districts or private schools. The editing or withholding of any such records, except as provided for in this chapter, is prohibited.

Each school district shall adopt procedures for the granting of requests by parents to inspect and review records during regular school hours, provided that access shall be granted no later than five days following the date of the request. Procedures shall include the notification to the parent of the location of all official pupil records if not centrally located and the providing of qualified certificated personnel to interpret records where appropriate.

SEC. 7. Section 10941 of the Education Code is amended to read:

10941. Following an inspection and review of a pupil's records, the parent of a pupil or former pupil of a school district may challenge the content of any pupil record.

(a) The parent of a pupil may file a written request with the superintendent of the district to correct or remove any information recorded in the written records concerning his child which he alleges to be: (1) inaccurate, (2) an unsubstantiated personal conclusion or inference, (3) a conclusion or inference outside of the observer's area of competence, or (4) not based on the personal observation of a named person with the time and place of the observation noted.

(b) Within 30 days of receipt of such request, the superintendent or his designee shall meet with the parent and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district. The superintendent shall then sustain or deny the allegations.

If the superintendent sustains any or all of the allegations, he shall order the correction or the removal and destruction of the information.

If the superintendent denies any or all of the allegations and

refuses to order the correction or the removal of the information, the parent may, within 30 days of the refusal, appeal the decision in writing to the governing board of the school district.

(c) Within 30 days of receipt of such an appeal, the governing board shall, in closed session with the parent and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district, determine whether or not to sustain or deny the allegations.

If the governing board sustains any or all of the allegations, it shall order the superintendent to immediately correct or remove and destroy the information from the written records of the pupil.

The decision of the governing board shall be final.

Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board, unless the parent initiates legal proceedings relative to the disputed information within the prescribed period.

(d) If the final decision of the governing board is unfavorable to the parent, or if the parent accepts an unfavorable decision by the district superintendent, the parent shall have the right to submit a written statement of his objections to the information. This statement shall become a part of the pupil's school record until such time as the information objected to is corrected or removed.

SEC. 8. Section 10946 of the Education Code is amended to read:

10946. A school district may permit access to pupil records to any person for whom a parent of the pupil has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released. The recipient must be notified that the transmission of the information to others without the written consent of the parent is prohibited. The consent notice shall be permanently kept with the record file.

SEC. 9. Section 10947 of the Education Code is amended to read:

10947. A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order except that:

(a) Access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(1) School officials and employees of the district and members of a school attendance review board appointed pursuant to Section 12501, provided that any such person has a legitimate educational interest to inspect a record.

(2) Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided, where the pupil intends to or is directed to enroll, subject to the rights of parents as provided in Section 10939.

(3) Authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an

administrative head of an education agency, state education officials, or their respective designees, or the United States Office for Civil Rights, where such information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students or their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of federal legal requirements.

(4) Other state and local officials to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(5) Parents of a pupil 18 years of age or older who is a dependent as defined in Section 152 of the Internal Revenue Code of 1954.

(6) A pupil 16 years of age or older or having completed the 10th grade who requests such access.

(b) School districts may release information from pupil records to the following:

(1) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

(2) Agencies or organizations in connection with a student's application for, or receipt of, financial aid; provided, that information permitting the personal identification of students or their parents may be disclosed only as may be necessary for such purposes as to determine the eligibility of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(3) Accrediting organizations in order to carry out their accrediting functions.

(4) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

(5) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll, subject to the rights of parents as provided in Section 10939. Such information shall be in addition to the pupil's permanent record transferred pursuant to Section 10939

No person, persons, agency, or organization permitted access to

pupil records pursuant to this section shall permit access to any information obtained from such records by any other person, persons, agency, or organization without the written consent of the pupil's parent; provided, however, that this paragraph shall not be construed as to require prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as such persons have a legitimate interest in the information.

SEC. 9.5. Section 10948 of the Education Code is amended to read:

10948. Information concerning a student shall be furnished in compliance with a court order. The school district shall make a reasonable effort to notify the parent and the pupil in advance of such compliance if lawfully possible within the requirements of the judicial order.

SEC. 10. Chapter 1.2 (commencing with Section 22509) is added to Division 16.5 of the Education Code, to read:

CHAPTER 1.2. STUDENT RECORDS

Article 1. Legislative Intent

22509. It is the intent of the Legislature to resolve potential conflicts between California law and the provisions of Public Law 93-380 regarding the confidentiality of student records in order to insure the continuance of federal education funds to institutions of postsecondary education within the state, and to revise generally and update the law relating to such records.

This chapter shall not apply to community colleges or community college students unless specifically provided for herein.

This chapter, except for Sections 22509.1, 22509.3, 22509.4, 22509.5, 22509.6, 22509.7, 22509.11, and 22509.14, shall not apply to private colleges or universities, or to any private educational institution operating pursuant to, or expressly excluded from the operation of, Division 21 (commencing with Section 29001).

Article 2. Definitions

22509.1. As used in this chapter:

(a) "Student record" means any item of information directly related to an identifiable student, other than directory information, which is maintained by a college or university or is required to be maintained by any employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm, or other means.

(b) "Student record" shall not mean information provided by a student's parents relating to applications for financial aid or scholarships, nor shall it mean confidential letters or statements of recommendation maintained by a college or university on or before

41493 29820 61

January 1, 1975, provided that such letters or statements are not used for purposes other than those for which they were specifically intended, nor shall it mean information related to a student compiled by a college or university officer or employee which remains in the sole possession of the maker and is not accessible or revealed to any other person except a substitute. For purposes of this subdivision, "substitute" shall mean a person who performs the duties of the individual who made the notes on a temporary basis and does not refer to a person who permanently succeeds the maker of the notes in his or her position.

"Student record" shall also not include information related to a student created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which is created, maintained, or used only in connection with the provision of treatment to the student and is not available to anyone other than persons providing such treatment; provided, however, that such a record may be personally reviewed by a physician or other appropriate professional of the student's choice.

"Student record" shall also not mean information maintained by a college or university law enforcement unit if the personnel of the unit do not have access to student records pursuant to Section 22509.14, if the information maintained by the unit is kept apart from information maintained pursuant to subdivision (a) of this section, if the information is maintained solely for law enforcement purposes, and if the information is not made available to persons other than law enforcement officials of the same jurisdiction, nor shall it mean information maintained in the normal course of business pertaining to persons who are employed by a college or university, provided that such information relates exclusively to such person in that person's capacity as an employee and is not available for use for any other purpose.

(c) "Directory information" means one or more of the following items: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student, and any other information authorized in writing by the student.

(d) "Access" means a personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record.

Article 3. General Provisions

22509.2. Colleges and universities may establish, maintain, and destroy student records according to regulations adopted by their governing boards.

22509.3. Colleges and universities shall notify students in writing of their rights under this chapter upon the date of the student's enrollment next following January 1, 1977, and at least annually thereafter.

The notice shall take a form which reasonably notifies students of the availability of the following specific information:

(a) The types of student records and information contained therein which are directly related to students and maintained by the institution.

(b) The official responsible for the maintenance of each type of record.

(c) The location of the log or record required to be maintained pursuant to Section 22509.4.

(d) The criteria to be used by the institution in defining "officials and employees" and in determining "legitimate educational interest" as used in Section 22509.4 and subdivision (a) of Section 22509.14.

(e) The policies of the institution for reviewing and expunging those records.

(f) The right of the student to access to his records.

(g) The procedures for challenging the content of student records.

(h) The cost, if any, which will be charged for reproducing copies of records.

(i) The categories of information which the institution has designated as directory information pursuant to Section 22509.11.

(j) Any other rights and requirements set forth in this chapter and the right of the student to file a complaint with the United States Department of Health, Education, and Welfare concerning an alleged failure by the institution to comply with the provisions of Section 438 of the General Education Provisions Act (20 U.S.C.A. Sec. 1232g).

22509.4. A log or record shall be maintained for each student's record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests therefor. Such listing need not include:

(a) Students to whom access is granted pursuant to Section 22509.7;

(b) Parties to whom directory information is released pursuant to Section 22509.11;

(c) Parties for whom written consent has been executed by the student pursuant to Section 22509.13; or

(d) Officials or employees having a legitimate educational interest pursuant to subdivision (a) of Section 22509.14.

The log or record shall be open to inspection only by the student and the college or university official or his designee responsible for the maintenance of student records, and to other school officials with legitimate educational interests in the records, and to the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency as defined in Public Law 93-380, and state educational authorities as a means of auditing the operation of the system.

22509.5. Any college or university may make a reasonable charge in an amount not to exceed the actual cost of furnishing copies of any student record; provided, however, that no charge may be made to search for or to retrieve any student record.

22509.6. Whenever a student transfers from one public or private institution of postsecondary education to another within the state, appropriate records or a copy thereof shall be transferred by the former community college, college, or university upon a request from the student; provided, however, that the community college, college, or university from which the student is transferring may notify the student that his records will be transferred upon payment by the student of all fees and charges due the community college, college, or university. Any community college, college, or university making such a transfer of such records shall notify the student of his right to receive a copy of the record and his right to a hearing to challenge the content of the record.

The California State University and Colleges Board of Trustees and the Regents of the University of California may adopt rules and regulations concerning transfer of such records to, from, or between schools under their respective jurisdictions.

Article 4. Rights of Students

22509.7. Any currently enrolled or former student has a right of access to all student records relating to him maintained by any public or private college or university, except those records which include information on more than one identifiable student, in which case only that information relating to the student requesting access shall be revealed.

Each college or university shall adopt procedures for the granting of requests by students to inspect and review records during regular school hours, provided that access shall be granted no later than 15 working days following the receipt of the request. Procedures shall include notification of the location of all official student records if not centrally located and the providing of qualified personnel to interpret records where appropriate.

22509.8. (a) A student may waive his right of access to any student records devoted solely to confidential recommendations for career placement or postsecondary admission; provided, that such recommendations are used solely for the purpose for which they were specifically intended, and provided, that the student shall be

notified, upon request, of the names of all persons making confidential recommendations. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from a college or university.

(b) The fact that a waiver has or has not been executed pursuant to this section shall not be revealed to any person other than the person or persons responsible for maintenance of student records or the person or persons making the confidential recommendation.

(c) No student may be required to sign a form saying that he has not waived access to any confidential recommendation.

22509.9. Each college or university shall establish procedures whereby a student may request, in writing, that information be removed from the student's record which he alleges to be: (1) inaccurate; (2) an unsubstantiated personal conclusion or inference; (3) a conclusion or inference outside of the observer's area of competence; or (4) not based upon the personal observation of a named person with the time and place of the observation noted.

If any of the student's allegations are sustained, the information shall be corrected or removed from the student's record and destroyed.

If any of the student's allegations are not sustained, the student shall have the right to submit a written statement of his objections to the information. This statement shall become a part of the student's record until such time as the information objected to is corrected or removed.

22509.10. Whenever there is included in any student record information concerning any disciplinary action taken by college or university personnel in connection with the student, the student shall be allowed to include in such record a written statement or response concerning the disciplinary action.

Article 5. Privacy of Student Records

22509.11. Colleges and universities shall adopt policies identifying those categories of directory information as defined in subdivision (c) of Section 22509.1 which may be released. The names and addresses of students may be provided to a private school or college operating under the provisions of Division 21 (commencing with Section 29001), provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution, and provided further that any violation of this provision is a misdemeanor, punishable by a fine of not to exceed two thousand five hundred dollars ($2,500), and, in addition, the privilege of the school or college to receive such information shall be suspended for a period of two years from the time of discovery of the misuse of such information.

Any college or university may, in its discretion, limit or deny the release of specific categories of directory information to any public

or private nonprofit organization based upon a determination of the best interests of students.

Directory information may be released according to local policy as to any student currently attending the college or university, provided that public notice is given at least annually of the categories of information which the college or university plans to release.

No directory information shall be released regarding any student when the student has notified the institution in writing that such information shall not be released.

22509.12. Nothing in this chapter shall preclude a college or university from providing, in its discretion, statistical data from which no student may be identified to any public agency or entity or private nonprofit college, university, or educational research and development organization when such actions would be in the best educational interests of students.

22509.13. A college or university may permit access to student records to any person for whom the student has executed written consent specifying the records to be released and identifying the party or class of parties to whom such records may be released. The recipient must be notified that the transmission of the information to others without the written consent of the student is prohibited. The consent notice shall be permanently kept with the record file.

22509.14. A college or university is not authorized to permit access to student records to any person without the written consent of the student or under judicial order except that access may be permitted to the following:

(a) Officials and employees of the college or university, provided that any such person has a legitimate educational interest to inspect a record.

(b) Authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency, state education officials, or their respective designees, or the United States Office for Civil Rights, where such information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students or their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of federal legal requirements.

(c) Other state and local officials or authorities to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(d) Officials of other public or private schools or school systems, including local, county, or state correctional facilities where educational programs are provided, where the student seeks or

intends to enroll, or is directed to enroll, subject to the rights of students as provided in Section 22509.6.

(e) Agencies or organizations in connection with a student's application for, or receipt of, financial aid; provided, that information permitting the personal identification of students may be disclosed only as may be necessary for such purposes as to determine the eligibility of the student for financial aid, to determine the amount of the financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(f) Accrediting organizations in order to carry out their accrediting functions.

(g) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

(h) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons, or subject to such regulations as may be issued by the Secretary of Health, Education, and Welfare.

No person, persons, agency, or organization permitted access to student records pursuant to this section shall permit access to any information obtained from such records by any other person, persons, agency, or organization without the written consent of the student; provided, however, that this paragraph shall not be construed as to require prior student consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as such persons have a legitimate educational interest in the information.

22509.15. Information concerning a student shall be furnished in compliance with a court order. The college or university shall make a reasonable effort to notify the student in advance of such compliance if lawfully possible within the requirements of the judicial order.

22509.16. The service of a subpoena upon a college or university employee solely for the purpose of causing him to produce a school record pertaining to any student may be complied with by such employee, in lieu of personal appearance as a witness in the proceeding, by submitting to the court, or other agency issuing the subpoena, at the time and place required by the subpoena, a copy of such record, accompanied by an affidavit certifying that such copy is a true copy of the original record on file in the college or university office. The copy of the record shall be in the form of a photostat,

microfilm, microcard, or miniature photograph or other photographic copy or reproduction, or an enlargement thereof.

22509.17. The California State University and Colleges Board of Trustees shall adopt appropriate rules and regulations to insure the orderly implementation of this chapter.

22509.18. The provisions of this chapter shall be applicable to the University of California upon the adoption of a resolution by the Regents of the University of California making the provisions so applicable.

SEC. 11. Section 25430.1 of the Education Code is amended to read:

25430.1. As used in this chapter:

(a) "Student record" means any item of information directly related to an identifiable student, other than directory information, which is maintained by a community college or required to be maintained by any employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm or other means.

"Student record" shall not mean information provided by a student's parents relating to applications for financial aid or scholarships, nor shall it mean confidential letters and statements of recommendations maintained by a community college on or before January 1, 1975, provided that such letters or statements are not used for purposes other than those for which they were specifically intended, nor shall it mean information related to a student compiled by a community college officer or employee which remains in the sole possession of the maker and is not accessible or revealed to any other person except a substitute. For purposes of this subdivision, "substitute" shall mean a person who performs on a temporary basis the duties of the individual who made the notes and does not refer to a person who permanently succeeds the maker of the notes in his or her position.

"Student record" shall also not include information related to a student created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which is created, maintained, or used only in connection with the provision of treatment to the student and is not available to anyone other than persons providing such treatment; provided, however, that such a record may be personally reviewed by a physician or other appropriate professional of the student's choice.

(b) "Student record" shall not mean information maintained by a community college law enforcement unit if the personnel of the unit do not have access to student records pursuant to Section 25430.15, if the information maintained by the unit is kept apart from information maintained pursuant to subdivision (a) of this section, if the information is maintained solely for law enforcement purposes, and if the information is not made available to persons other than law

enforcement officials of the same jurisdiction, nor shall it mean information maintained in the normal course of business pertaining to persons who are employed by a community college, provided that such information relates exclusively to such person in that person's capacity as an employee and is not available for use for any other purpose.

(c) "Directory information" means one or more of the following items: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student, and any other information authorized in writing by the student.

(d) "Access" means a personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record.

SEC. 12. Section 25430.3 of the Education Code is amended to read:

25430.3. Community college districts shall notify students in writing of their rights under this chapter upon the date of the student's enrollment next following its effective date, and at least annually thereafter. The notice shall take a form which reasonably notifies students of the availability of the following specific information:

(a) The types of student records and information contained therein which are directly related to students and maintained by the institution.

(b) The official responsible for the maintenance of each type of record.

(c) The location of the log or record required to be maintained pursuant to Section 25430.4.

(d) The criteria to be used by the institution in defining "officials and employees" and in determining "legitimate educational interest" as used in Section 25430.4 and subdivision (a) of Section 25430.15.

(e) The policies of the institution for reviewing and expunging those records.

(f) The right of the student to access to his records.

(g) The procedures for challenging the content of student records.

(h) The cost if any which will be charged for reproducing copies of records.

(i) The categories of information which the institution has designated as directory information pursuant to Section 25430.12.

(j) Any other rights and requirements set forth in this chapter and the right of the student to file a complaint with the United States Department of Health, Education, and Welfare concerning an

alleged failure by the institution to comply with the provisions of Section 438 of the General Education Provisions Act (20 U.S.C.A. 1232g).

SEC. 13. Section 25430.4 of the Education Code is repealed.

SEC. 14. Section 25430.4 is added to the Education Code, to read:

25430.4. A log or record shall be maintained for each student's record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests therefor. Such listing need not include:

(a) Students to whom access is granted pursuant to Section 25430.8;

(b) Parties to whom directory information is released pursuant to Section 25430.12;

(c) Parties for whom written consent has been executed by the student pursuant to Section 25430.14; or

(d) Officials or employees having a legitimate educational interest pursuant to subdivision (a) of Section 25430.15.

The log or record shall be open to inspection only by the student and the community college official or his designee responsible for the maintenance of student records, and to other school officials with legitimate educational interests in the records, and to the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency as defined in Public Law 93-380, and state educational authorities as a means of auditing the operation of the system.

SEC. 15. Section 25430.5 of the Education Code is amended to read:

25430.5. Any community college may make a reasonable charge in an amount not to exceed the actual cost of furnishing copies of any student record; provided, however, that no charge shall be made for furnishing (1) up to two transcripts of students' records or (2) up to two verifications of various records of students. No charge may be made to search for or to retrieve any student record.

SEC. 16. Section 25430.7 of the Education Code is amended to read:

25430.7. Whenever a student transfers from one community college or public or private institution of postsecondary education to another within the state, appropriate records or a copy thereof shall be transferred by the former community college, college or university, or school or school district upon a request from the student; provided, however, that the community college, college or university, or school or school district from which the student is transferring may notify the student that the student's records will be transferred upon payment by the student of all fees and charges due the community college, college or university, or school or school district. Any community college, college or university, or school or school district making such a transfer of such records shall notify the student of his right to receive a copy of the record and his right to a hearing to challenge the content of the record.

The Board of Governors of the California Community Colleges may adopt rules and regulations concerning transfer of such records to, from, or between schools under its jurisdiction.

SEC. 17. Section 25430.8 of the Education Code is amended to read:

25430.8. Any currently enrolled or former student has a right to access to any and all student records relating to him maintained by community colleges. The editing or withholding of any such records, except as provided for in this chapter, is prohibited.

Each community college district shall adopt procedures for the granting of requests by students to inspect and review records during regular school hours, provided that access shall be granted no later than 15 working days following the date of the request. Procedures shall include notification of the location of all official student records if not centrally located and the providing of qualified personnel to interpret records where appropriate.

SEC. 17.5. Section 25430.9 of the Education Code is amended to read:

25430.9. A student may waive his right to access to student records devoted solely to confidential recommendations for career placement or postsecondary admission; provided, that such recommendations are used solely for the purpose for which they were specifically intended, and provided, that the student shall be notified, upon request, of the names of all persons making confidential recommendations. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from a community college.

SEC. 18. Section 25430.10 of the Education Code is amended to read:

25430.10. (a) Any student may file a written request with the chief administrative officer of a community college district to correct or remove information recorded in his student records which he alleges to be: (1) inaccurate; (2) an unsubstantiated personal conclusion or inference; (3) a conclusion or inference outside of the observer's area of competence; or (4) not based on the personal observation of a named person with the time and place of the observation noted.

(b) Within 30 days of receipt of such request, the chief administrative officer or his designee shall meet with the student and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the community college district. The chief administrative officer or his designee shall then sustain or deny the allegations.

If the chief administrative officer or his designee sustains any or all of the allegations, he shall order the correction or removal and destruction of the information.

If the chief administrative officer or his designee denies any or all of the allegations and refuses to order the correction or removal of the information, the student may, within 30 days of the refusal,

appeal the decision in writing to the governing board of the community college district.

(c) Within 30 days of receipt of such an appeal, the governing board shall, in closed session with the student and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the community college district, determine whether to sustain or deny the allegations.

If the governing board sustains any or all of the allegations, it shall order the chief administrative officer or his designee to immediately correct or remove and destroy the information.

The decision of the governing board shall be final.

Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board, unless the student initiates legal proceedings relative to the disputed information within the prescribed period.

(d) If the final decision of the governing board is unfavorable to the student, or if the student accepts an unfavorable decision by the chief administrative officer, the student shall have the right to submit a written statement of his objections to the information. This statement shall become a part of the student's record until such time as the information objected to is corrected or removed.

SEC. 19. Section 25430.12 of the Education Code is amended to read:

25430.12. Community college districts shall adopt a policy identifying those categories of directory information as defined in subdivision (c) of Section 25430.1 which may be released. The names and addresses of students may be provided to a private school or college operating under the provisions of Division 21, provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution, and provided further that any violations of this provision is a misdemeanor, punishable by a fine of not to exceed two thousand five hundred dollars ($2,500), and, in addition, the privilege of the school or college to receive such information shall be suspended for a period of two years from the time of discovery of the misuse of such information.

Any community college district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of students.

Directory information may be released according to local policy as to any student currently attending the community college, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. No directory information shall be released regarding any student when the student has notified the school that such information shall not be released.

SEC. 20. Section 25430.14 of the Education Code is amended to read:

25430.14. A community college district may permit access to student records to any person for whom the student has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released. The recipient must be notified that the transmission of the information to others without the written consent of the student is prohibited. The consent notice shall be permanently kept with the record file.

SEC. 21. Section 25430.15 of the Education Code is amended to read:

25430.15. A community college or community college district is not authorized to permit access to student records to any person without the written consent of the student or under judicial order except that access may be permitted to the following:

(a) Officials and employees of the community college; provided, that any such person has a legitimate educational interest to inspect a record.

(b) Authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency, state education officials, or their respective designees or the United States Office of Civil Rights, where such information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students or their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of federal legal requirements.

(c) Other state and local officials or authorities to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(d) Officials of other public or private schools or school systems, including local, county, or state correctional facilities where educational programs are provided, where the student seeks or intends to enroll, or is directed to enroll, subject to the rights of students as provided in Section 25430.7.

(e) Agencies or organizations in connection with a student's application for, or receipt of, financial aid; provided, that information permitting the personal identification of students may be disclosed only as may be necessary for such purposes as to determine the eligibility of the student for financial aid, to determine the amount of the financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(f) Accrediting organizations in order to carry out their accrediting functions.

(g) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

(h) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons, or subject to such regulations as may be issued by the Secretary of Health, Education, and Welfare.

No person, persons, agency or organization permitted access to student records pursuant to this section shall permit access to any information obtained from such records by any other person, persons, agency or organization without the written consent of the student; provided, however, that this paragraph shall not be construed as to require prior student consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as such persons have a legitimate educational interest in the information.

SEC. 21.5. Section 25430.16 of the Education Code is amended to read:

25430.16. Information concerning a student shall be furnished in compliance with a court order. The community college district shall make a reasonable effort to notify the student in advance of such compliance if lawfully possible within the requirements of the judicial order.

SEC. 22. No specific appropriation is contained in this act because this act merely affirms for the state that which has been declared existing law or regulation through action by the federal government and because general compliance with this act is a condition of the continued receipt of federal funds.

CHAPTER 1298

An act to amend Section 11477 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 28, 1976 Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 11477 of the Welfare and Institutions Code is amended to read:

11477. As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall:

(a) Assign to the county any rights to support from any other person such applicant may have in their own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and which have accrued at the time such assignment is made. Receipt of public assistance under this chapter shall operate as an assignment by operation of law.

(b) Cooperate with the county welfare department and district attorney in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and in obtaining any support payments due any person for whom aid is requested or obtained. The Department of Benefit Payments shall establish an exclusive list of acts, in accordance with federal law, which shall be the only acts deemed to be a refusal to offer reasonable cooperation and assistance. The county welfare department shall verify that the applicant or recipient refused to offer reasonable cooperation prior to determining that such applicant or recipient is ineligible. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, if the applicant completes the necessary forms and agrees to cooperate with the district attorney in securing support and determining paternity, where applicable.

A recipient shall be considered to be cooperating with the county welfare department or the district attorney's office and they shall be eligible for aid, if otherwise eligible, if they cooperate to the best of their ability or have good cause for refusal to cooperate. The department, in accordance with federal law, shall establish standards for determining good cause for refusal to cooperate. With respect to any application or any questionnaire relating to any application, no questions on paternity shall be asked in cases where paternity is not legally an issue. Persons eligible for immediate aid pursuant to Section 11056 or Section 11266 shall receive such aid prior to completing the forms required to obtain child support and establish paternity, provided that they indicate they will cooperate in these matters. Appearances at public agencies required pursuant to this section, subsequent to certification of the applicant shall be scheduled with due regard for his parental duties and employment responsibilities. If an appearance is required at a time other than normal working hours, a statement as to the reason for such appearance shall be inserted in the file of the applicant.

If the relative with whom a child is living is found to be ineligible because of failure to comply with the provisions of this section, any aid for which such child is eligible will, to the extent required by federal law, be provided in the form of protective payments.

The department shall insure that all applicants for or recipients of aid under this chapter are properly notified of the conditions imposed by this section.

CHAPTER 1299

An act to add Section 24317 to the Education Code, relating to the California State University and Colleges.

[Approved by Governor September 28, 1976 Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 24317 is added to the Education Code, to read:

24317. (a) Every employee of a state university or college shall have the right to access to all reports, documents, correspondence, and other material which pertain to the employee which are kept by the university or college. Each employee shall also have the right to have another person of the employee's choosing accompany the employee to inspect the employee's records.

(b) Upon written request, the employee shall, within 10 calendar days of the request, be provided an exact copy of all or any portion the employee desires of any of the items specified in subdivision (a). The employee shall bear the cost of duplicating such items.

(c) If, after examination of the records pertaining to the employee, an employee believes that any portion of the material is not accurate, relevant, timely, or complete, the employee may request in writing correction of the record or deletion of the offending portion, or both. Such request shall include a written statement by the employee as to the corrections and deletions that the employee believes need to be made and the reasons therefore. This statement shall become part of the employee's personnel file

(d) Within 21 calendar days of the request for correction of the record or deletion of the portion of the record objected to, or both, the president of the state university or college shall either accede to the employee's request or notify the employee in writing of the employee's refusal to grant the request. If the president refuses to grant the request, the president shall state the reasons for the refusal in writing, and the written statement shall become part of the employee's personnel file.

(e) The remedies authorized by this section shall be in addition to any other remedy provided by law.

(f) Personnel recommendations or decisions relating to the promotion, retention, termination, or any other personnel action shall be based primarily on material contained in the employee's personnel file and open to the employee's inspection. If a personnel recommendation or decision is based on any reasons not contained in the employee's personnel file, the party making the recommendation or decision shall commit those reasons to writing, and the written statement of those reasons shall become part of the employee's personnel file.

(g) Preemployment materials shall be excluded from the requirements of this section, except as they may be considered in subsequent personnel actions.

CHAPTER 1300

An act to amend Sections 11554, 12805, and 15275 of the Government Code, and to amend Sections 607, 4003, 4004, 4031, 4112, 4113, 4114, 4115, 4118, 4119, 4133, 4141, 4142, 4151, 4152, 4153, 4156, 4157, 4170.5, 4172, 4173, 4174, 4175, 4176, 4177, 4178, 4179, 4185, 4251, 4253, 4291, 4292, 4293, 4297, 4371, 4372, 4373, 4417, 4423, 4436, 4441, 4475, 4476, 4477, 4478, 4491, 4492, 4493, 4494, 4514.5, 4529.5, 4538, 4540, 4551.5, 4553, 4561.1, 4561.3, 4577, 4581, 4582, 4582.4, 4582.6, 4582.7, 4583.5, 4585, 4586, 4587, 4588, 4591, 4591.1, 4592, 4604, 4605, 4606, 4607, 4608, 4609, 4610, 4611, 4612, 4627, 4645, 4646, 4647, 4648, 4650, 4651, 4653, 4654, 4656.2, 4671, 4672, 4673, 4674, 4675, 4676, 4681, 4682, 4683, 4684, 4684.5, 4692, 4693, 4694, 4695, 4715, 4716, 4717, 4718, 4722, 4723, 4772, 4773, 4774, 4775, 4776, 4782, 4783, 4784, 4785, 4786, 4787, 4788, 4952, 4953, and 4957 of, to amend the heading of Article 1 (commencing with Section 4475) of Chapter 7 of Part 2 of Division 4 of, to amend and renumber the heading of Article 3 (commencing with Section 660) of Chapter 2 of Division 1 of, to add Article 3 (commencing with Section 690) to Chapter 2 of Division 1 of, and Chapter 2.5 (commencing with Section 700) to Division 1 of, and to repeal Sections 4005, 4006, 4525.9, and 4724 of, and Article 2 (commencing with Section 630), Article 2.5 (commencing with Section 650), and Article 4 (commencing with Section 700) of Chapter 2 of Division 1 of, the Public Resources Code, relating to public resources.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 11554 of the Government Code is amended to read:

11554. An annual salary of twenty-seven thousand five hundred dollars ($27,500) shall be paid to each of the following:

(a) Director of Conservation
(b) Director of Fish and Game
(c) Executive Officer, Franchise Tax Board
(d) Director of Parks and Recreation
(e) Director of Rehabilitation
(f) Director of Veterans Affairs
(g) Director of Commerce
(h) Director of Professional and Vocational Standards
(i) Members of the Unemployment Insurance Appeals Board

(j) State Architect

(k) Director of Forestry.

SEC. 2. Section 12805 of the Government Code is amended to read:

12805. The Resources Agency consists of the State Air Resources Board, the Colorado River Board, the State Energy Resources Conservation and Development Commission, the State Water Resources Control Board and each California regional water quality control board, the State Lands Commission, the Division of State Lands, and the following departments: Conservation; Fish and Game; Forestry; Navigation and Ocean Development; Parks and Recreation; and Water Resources.

SEC. 3. Section 15275 of the Government Code is amended to read:

15275. There is in the state government the California State Communications Advisory Board which consists of:

(a) The Director of General Services.

(b) The Attorney General or his designated representative, the Adjutant General or his designated representative, the Director of the Office of Emergency Services or his designated representative, the Commissioner of the California Highway Patrol or his designated representative, the Director of Forestry or his designated representative, the Director of Public Works or his designated representative, the Director of the Department of Water Resources or his designated representative, and a representative of the Governor.

(c) Two representatives of the law enforcement services in this state, one of whom shall be representative of city or city and county law enforcement services and shall be recommended by the League of California Cities, and one of whom shall be representative of county law enforcement services and shall be recommended by the County Supervisors Association, appointed by the Governor subject to the confirmation of the Senate.

(d) Two representatives of the fire services in this state, one of whom shall be representative of city or city and county fire services and shall be recommended by the California Fire Chiefs Association, and one of whom shall be representative of county or district fire services and shall be recommended by the California Rural Fire Association, appointed by the Governor subject to the confirmation of the Senate.

(e) Two representatives of industry at large, appointed by the Governor subject to the confirmation of the Senate.

SEC. 4. Section 607 of the Public Resources Code is amended to read:

607. The work of the department shall be divided into at least three divisions, known as the Division of Mines and Geology, the Division of Oil and Gas, and the Division of Resource Conservation.

SEC. 5. Article 2 (commencing with Section 630) of Chapter 2 of Division 1 of the Public Resources Code is repealed.

SEC. 6. Article 2.5 (commencing with Section 650) of Chapter 2 of Division 1 of the Public Resources Code is repealed.

SEC. 8. The heading of Article 3 (commencing with Section 660) of Chapter 2 of Division 1 of the Public Resources Code is amended and renumbered to read:

Article 2. State Mining and Geology Board

SEC. 9. Article 3 (commencing with Section 690) is added to Chapter 2 of Division 1 of the Public Resources Code, to read:

Article 3. Division of Oil and Gas

690. The Division of Oil and Gas shall be in charge of a chief, known as the State Oil and Gas Supervisor.

SEC. 10. Article 4 (commencing with Section 700) of Chapter 2 of Division 1 of the Public Resources Code is repealed.

SEC. 11. Chapter 2.5 (commencing with Section 700) is added to Division 1 of the Public Resources Code, to read:

CHAPTER 2.5. DEPARTMENT OF FORESTRY

Article 1. Organization and General Powers

700. As used in this chapter:

(a) "Board" means the State Board of Forestry.

(b) "Department" means the Department of Forestry.

(c) "Director" means the Director of Forestry.

701. (a) There is in the Resources Agency the Department of Forestry, which is under the control of an executive officer known as the Director of Forestry. The director is appointed by the Governor and holds office at the pleasure of the Governor. The appointment of the director is subject to confirmation by the Senate at the next regular or special session of the Legislature, and the refusal or failure of the Senate to confirm the appointment shall create a vacancy in the office. The director shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) There shall be one Deputy Director of Forestry appointed by the director who shall be exempt from civil service.

(c) There shall be one Deputy Director of Forestry appointed by the director in accordance with the State Civil Service Act who shall be a registered professional forester.

(d) The deputy directors shall have such duties as shall be assigned, from time to time, by the director, and they shall be responsible to the director for the performance thereof.

702. Before entering upon the duties of his office, the director shall execute an official bond to the state in the penal sum of twenty-five thousand dollars ($25,000) conditioned upon the faithful

performance of his duties.

703. The department succeeds to, and is vested with, all of the powers, duties, purposes, responsibilities, and jurisdiction in matters pertaining to forestry vested in the Department of Conservation or in the Director of Conservation, or in the abolished Division of Forestry of the Department of Conservation. The Division of Forestry is hereby abolished.

Whenever any reference is made to the Department of Conservation or to the Director of Conservation or to the abolished Division of Forestry pertaining to a power, duty, purpose, responsibility, or jurisdiction transferred to the Department of Forestry by this section, it shall be deemed to be a reference to, and to mean, the Department of Forestry or the Director of Forestry, as the case may be.

704. All persons, other than temporary employees, serving in the state civil service and engaged in the performance of a function transferred from the Department of Conservation and the abolished Division of Forestry of the Department of Conservation to the Department of Forestry or engaged in the administration of a law, the administration of which is transferred pursuant to this chapter, shall remain in the state civil service and are hereby transferred from the Department of Conservation to the Department of Forestry. The status, positions, and rights of such persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act, except as to positions the duties of which are vested in a position that is exempt from civil service.

705. The department may expend the money in any appropriation or in any special fund in the State Treasury made available by law for the administration of the statutes the administration of which is committed to the department, or for the use, support, or maintenance of any board, bureau, commission, department, office, or officer whose duties, powers, and functions have been transferred to, and conferred upon, the department. Such expenditures by the department shall be made in accordance with law in carrying out the purposes for which the appropriations were made or the special funds created.

706. The department shall have possession and control of all records, books, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property, real or personal, held for the benefit or use of all bodies, offices, and officers whose duties, powers, and functions have been transferred to, and conferred upon, the department.

707. Whenever the department has received and deposited any money in the State Treasury to the credit of the General Fund in an excessive amount or in error, or whenever a refund of all or a portion of such money is due any person, firm, or corporation because of the termination of an agreement or other lawful reason, payment of such refund shall be made upon the filing of a claim by the director with the State Controller. The State Controller shall draw his warrant for

payment of the refund from any appropriation made for that purpose.

708. For the purpose of disseminating information relating to its activities, powers, duties, or functions, the department, with the approval of the Department of General Services, may issue publications, construct and maintain exhibits, and perform such acts and carry on such functions as in the opinion of the director will best tend to disseminate such information.

Such publications may be distributed free of charge to public libraries and to other state departments and state officers. The department may exchange copies with contemporary publications.

All money received by the department from the sale of publications shall be paid into the State Treasury to the credit of the General Fund.

709. The provisions of Chapter 2 (commencing with Section 11150) of Part 1 of Division 6 of Title 2 of the Government Code apply to the director. The director may appoint, in accordance with the State Civil Service Act, such deputies, officers, and other employees as may be necessary. The director shall assure an adequate number of employees who, by reason of their education or professional qualifications, are equipped to perform the duties required under the Z'berg-Nejedly Forest Practice Act of 1973, including, but not limited to, the review of timber harvesting plans and performing the necessary inspections of timber operations. The director may authorize any employee of the department, to exercise any power granted to, or perform any duty imposed upon, the director by the State Civil Service Act.

710. The director shall have no power to amend or repeal any order, regulation, ruling, or directive of the board.

711. The director, with approval of the Director of Finance, may accept on behalf of the department federal grants for the purposes for which the department is established. Such grants shall be deposited in the Special Deposit Fund in the State Treasury provided for by Section 16370 of the Government Code, and may be expended under such terms and conditions as may be required by the federal government.

Article 2. State Board of Forestry

730. There is in the department a State Board of Forestry consisting of nine members appointed by the Governor.

731. All members of the board shall be appointed and shall be selected and approved for appointment on the basis of their educational and professional qualifications and their general knowledge of, interest in, and experience with, problems relating to watershed management (including hydrology and soil science), forest management practices, fish and wildlife, range management, forest economics, or land use planning. Five members shall be selected from the general public, three members shall be selected

from the forest products industry, and one member shall be selected from the range livestock industry. At no time shall a majority of the members, nor any of the members selected from the general public, be persons with a direct personal financial interest, within the meaning of Section 1120 of the Government Code, in timberlands. All members of the board shall represent the general public interest.

732. Each member of the board shall hold office for four years from the expiration of the term of his predecessor and until his successor is appointed. Vacancies shall be immediately filled by the Governor.

733. The members first appointed to the board shall classify themselves by lot so that the term of three members shall expire January 15, 1975, the term of two members shall expire January 15, 1976, the term of two members shall expire January 15, 1977, and the term of two members shall expire January 15, 1978, except that no member shall serve for a term in excess of four years without being reappointed and confirmed by the Senate as provided in this article.

734. 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; however, each member 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.

735. Each member of the board shall receive fifty dollars ($50) for each day during which he is engaged in the performance of his official duties; provided, that the compensation of each member, except the compensation of the chairman, shall not exceed in any one fiscal year the sum of four thousand dollars ($4,000). The chairman of the board may receive compensation of not to exceed five thousand dollars ($5,000) in any one fiscal year for the performance of his official duties. In addition to such compensation, each member shall be reimbursed for his necessary traveling and other expenses incurred in the performance of his official duties.

736. 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 rules and regulations of the board adopted pursuant to Article 4 (commencing with Section 4551) of Chapter 8 of Part 2 of Division 4. All meetings of the board shall be open to the public.

737. (a) No member of the board shall participate in any board action pursuant to Article 8 (commencing with Section 4601) or Article 9 (commencing with Section 4621) of Chapter 8 of Part 2 of Division 4 which involves himself or any person with which he is connected as a director, officer, or employee, or in which he has a

478 30 12 165 139

direct personal financial interest within the meaning of Section 1120 of the Government Code.

(b) 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 and the facts upon which the allegation is based and asking that the member be removed from office. Further proceedings shall be in accordance as near as may be with rules governing civil actions. If after trial the court finds that the board member has knowingly violated this section it shall pronounce judgment that the member be removed from office.

738. 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.

739. 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.

740. The board shall represent the state's interest in the acquisition and management of state forests as provided by law and in federal land matters pertaining to forestry, and the protection of the state's interests in forest resources on private lands, and shall determine, establish, and maintain an adequate forest policy. General policies for guidance of the department shall be determined by the board.

741. The board shall annually determine state needs for forest management research and recommend the conduct of needed projects to the Governor and the Legislature.

742. The board shall provide for a statewide program of research in the technical phases of forest management 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.

743. State agencies shall submit to the board plans for, and the results of, all investigations that relate to, or have an effect upon, forest resource utilization for review and comment. The board may, at its expense, contract with any state or local agency to investigate and report on any technical factors involved in forest management; provided, that the burden, including costs, of such reports shall bear a reasonable relationship to the needs for the reports and the benefits to be obtained from such reports.

744. The board may prepare and implement a forest management information storage and retrieval program regarding forest land conditions in the state to assist in the timely and reasoned formulation of programs and policies. Such program may be

coordinated and integrated to the maximum extent practicable with data storage and retrieval programs of other state agencies and institutions. The board may review existing forest management storage, retrieval, and analysis systems in the institutions of higher learning in this state and, insofar as the board deems desirable, may utilize such systems as a model for the state program established pursuant to this section.

745. The board shall implement a public information program on matters involving forest management and shall maintain an information file on forest management research and other pertinent matters.

Article 3. Professional Foresters

750. This article may be known and cited as the Professional Foresters Law.

751. The purpose of this article is to declare the existence of a public interest in the management and treatment of the forest resources and timberlands of this state and to provide for the regulation of persons who practice the profession of forestry and whose activities have an impact upon the ecology of the wildlands and the quality of the wildland environment, and through such regulation to enhance the control of air and water pollution, the preservation of scenic beauty, the protection of watersheds for flood and soil erosion control, and the production and increased yield of natural resources including timber, forage, wildlife, water and outdoor recreation, to meet the needs of the people.

752. "Professional forester," as used in this article, means a person who, by reason of his knowledge of the natural sciences, mathematics, and the principles of forestry, acquired by forestry education and experience, performs services including, but not limited to, consultation, investigation, evaluation, planning, or responsible supervision of forestry activities when such professional services require the application of forestry principles and techniques.

753. "Forestry," as used in this article, refers to that science which treats of wildland resources in general, and of lands bearing associations of trees and other woody plants in particular; investigation of wildland soils, plants, and animals, and the ecology thereof; and the application of scientific knowledge in the fields of wildlands protection, timber growing and utilization, forest resource inventories, watershed management, forest economics and finance, air and water pollution control on wildlands, outdoor recreation, and the preservation of natural scenery.

754. A "qualified" forester is any person who possesses all of the qualifications for registration as set forth in Section 752 but who is not registered.

755. "Person" as used in this article means any natural person.

756. Nothing contained in this article prohibits any person from

engaging in those activities otherwise restricted to registered professional foresters, provided a registered professional forester is in charge of the professional practice or work of such person and all professional work or documents are done by or under the supervision of such registered professional forester.

757. The provisions of this article do not apply to any landowner who is a natural person and who personally performs services of a professional forester, when such services are personally performed on lands owned by him.

758. This article shall not be construed to authorize a registered professional forester to practice civil engineering as defined in Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code or to practice land surveying as defined in Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code.

759. The board may by regulation adopt such rules and regulations pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, as it determines are reasonably necessary to enable it to carry into effect the provisions of this article.

760. The board shall consider matters pertaining to the registration of professional foresters at least once every six months at regular meetings and may, as necessary, meet solely for the purpose of considering matters to carry out the provisions of this article.

760.5. The director may appoint such clerical and secretarial employees, technical personnel, and other staff as may be necessary to properly assist the work of the board in carrying out the purposes of this article. Such staff personnel shall be subject to the relevant system and procedures of the state civil service. The provisions of the State Civil Service Act contained in Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code shall apply to such personnel.

761. The board shall keep a complete record of all applications for registration and certification and the board's action thereon.

762. The board may by regulation provide for the issuance of certificates of specialization in such fields of specialization as the board may by regulation establish.

763. The board shall establish an examining committee of at least five members composed either of persons selected from its own membership or of professional foresters in good standing appointed by the board and serving at its pleasure, or any combination of such persons. The examining committee shall:

(a) Examine all applicants for registration as professional foresters and for specialty certificates

(b) Recommend to the board applicants for the license of professional forester and applicants for specialty certificates who fulfill the requirements of this article.

(c) Recommend adoption of such rules and regulations or changes in rules and regulations as may be needed to effect the provisions of this article.

764. Any professional forester appointed to serve upon the examining committee shall receive twenty-five dollars ($25) for each day during which he is engaged in the performance of his official duties; provided, that the compensation of each such member shall not exceed in any one fiscal year the sum of one thousand dollars ($1,000). In addition, each such member shall be reimbursed for the actual and necessary expenses incurred in the performance of his duties, including travel expenses.

765. The examining committee shall adhere to the rules and regulations of the board. Any applicant for a license pursuant to this article who contends that he has been aggrieved by any action taken by the examining committee with respect to his qualifications may appeal to the board in accordance with rules or regulations prescribed by the board. The board on such appeal may administer an oral or written examination to the applicant as an aid in determining whether the applicant is qualified under the terms of this article.

766. On and after July 1, 1973, it shall be unlawful for any person to act in the capacity of, or to use the title of, a professional forester without being registered pursuant to this article, unless exempted from the provisions thereof.

767. An applicant for a license pursuant to this article shall apply to the board. Such application shall be accompanied by the payment of a fee in an amount fixed by the provisions of this article.

768. The board shall require an applicant to demonstrate such degree of experience and such general knowledge of the profession of forestry as the board deems necessary for the protection of the public.

769. An applicant shall meet all of the following qualifications:

(a) Be of good moral character and have a good reputation for honesty and integrity.

(b) Furnish evidence of having completed seven years of experience in forestry work.

Possession of a degree of bachelor of science, or equivalent degree as determined by the board, with a major in forestry, shall be deemed equivalent to four years of experience in the actual practice of forestry work.

At least three of the seven years of experience shall include having charge of forestry work, or forestry work under the supervision of a person registered, or qualified for, but exempt from, registration under the provision of this article. Work completed prior to July 1, 1973, shall qualify if it was under the supervision of a qualified forester, as defined in Section 754. The award of a master of forestry degree shall be acceptable as evidence of one year of such qualifying experience.

(c) Has successfully completed such examination or examinations as are prescribed by the board.

770. (a) Examinations shall be given by the board as often as it

is deemed necessary, but at least every six months.

(b) The examination may consist of both written and oral portions. A grade of 75 percent shall be necessary for successful completion of the examination.

771. An applicant failing in an examination may be examined again upon filing a new application and paying the application fee.

772. An applicant may request to be registered as a professional forester and in addition to be certified as a specialist in one or more fields of forestry. Such certification as a specialist shall be granted provided the applicant meets all the requirements established by the board for certification of the specialties requested.

773. Licenses and specialty certificates issued pursuant to this article shall expire on July 1 of each year.

774. Issuance of a license may be denied if sufficient evidence is received by the board of the commission or doing by the applicant of any act which, if committed or done by a licensee, would be grounds for the suspension or revocation of his license.

775. The board may upon its own motion, and shall upon the verified complaint in writing of any person, cause investigation to be made of the actions of any person licensed pursuant to this article, and may temporarily suspend or permanently revoke the license of any person who is guilty of or commits any one or more of the acts or omissions constituting cause for disciplinary action.

776. Any accusations against a registrant or a certificant shall be filed within two years after the act or omissions alleged as the ground for disciplinary action. The proceedings under this article shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the board shall have all the powers granted therein.

777. In the event that the board finds against the registrant, or certificant, the board in its decision may do any of the following:

(a) Provide for the immediate complete suspension by the registrant or certificant of all operations as a professional forester during the period fixed by the decision.

(b) Permit the registrant or certificant to complete any or all contracts shown by competent evidence taken at the hearing to be then uncompleted.

(c) Impose upon the registrant or certificant compliance with such specific conditions as may be just in connection with his operations as a professional forester, and may further provide that until such conditions are complied with no application for restoration of the suspended or revoked registration or certification shall be accepted by the board.

778. A registrant or certificant shall be subject to disciplinary action who:

(a) Has been convicted of a felony.

(b) Has been found guilty by the board of any deceit, misrepresentation, violation of contract, fraud, or gross

incompetence in his practice.

(c) Has been guilty of any fraud or deceit in obtaining his registration or certification.

(d) Aids or abets any person in the violation of any provisions of this article.

(e) Fails in any material respect to comply with the provisions of this article.

779. Any person who violates any of the provisions of this article is guilty of a misdemeanor.

780. The fees received pursuant to this article shall be deposited in the Professional Forester Registration Fund in the State Treasury, which fund is hereby created.

781. All fees received pursuant to the provisions of this article shall be available, when appropriated by the Legislature, for the administration of this article; provided, that in the event that moneys need to be expended from the Professional Forester Registration Fund for emergencies for which no appropriation, or an insufficient appropriation, has been made by law, and which in the judgment of the Director of Finance constitutes a case of actual necessity, but limited to purposes of administration of this article which have been specifically approved by the Legislature in budget acts or other legislation, the Director of Finance may authorize an emergency expenditure in an amount determined by him from such fund; provided, further, that the Director of Finance shall file with the Joint Legislative Budget Committee within 10 days after approval of such emergency expenditure, copies of all executive orders, expenditure authorizations, and allotments made pursuant to this section, and stating the reasons for, and the amount of, such expenditures.

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

(a) The application fee for a license is fifteen dollars ($15).

(b) The license fee and specialty certificate fees shall be set by the board at not less than twenty-five dollars ($25) and not more than one hundred dollars ($100).

(c) The application fee for specialty certificates shall be fifteen dollars ($15).

(d) The fee for issuance of a duplicate license or specialty certificate shall be five dollars ($5).

(e) The annual renewal fee shall be fixed by the board at not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(f) The penalty fee for failure to apply for a renewal is five dollars ($5) for each month of delinquency, except that a licensee or certificant may, upon written notice to the board, be granted a withdrawal for a stated period of time without penalty.

(g) Withdrawals cannot exceed five years at any one time. A reinstatement application will be accompanied with a fee of fifteen dollars ($15).

478 30 12 290 164

(h) Every registered professional forester who desires to retain his registration on the books of the board shall, on or before the first day of July of each year, pay the renewal fee. In return for the payment of the renewal fee, a renewal certificate of registration shall be issued.

The amount of fees provided for herein shall be based on a determination by the board of the amount of revenues reasonably necessary to carry out the provisions of this article.

783. In case any person defaults in payment of the renewal fee, his registration may be revoked by the board on 60 days' notice in writing from the board, unless within this time the fee is paid, together with penalty, not exceeding the amount fixed by this article. Upon payment of the fee and penalty, the board shall reinstate such person's registration.

SEC. 27. Section 4003 of the Public Resources Code is amended to read:

4003. "Department" means the Department of Forestry.

SEC. 28 Section 4004 of the Public Resources Code is amended to read:

4004. "Director" means the Director of Forestry.

SEC. 29. Section 4005 of the Public Resources Code is repealed.

SEC. 30. Section 4006 of the Public Resources Code is repealed.

SEC. 31. Section 4031 of the Public Resources Code is amended to read:

4031. The department may, with the approval of the Department of General Services, purchase land for lookout sites and for other administrative purposes.

SEC. 32. Section 4112 of the Public Resources Code is amended to read:

4112. The department shall divide the state into a suitable and convenient number of administrative districts and shall appoint a supervising forest officer for each district.

SEC. 33. Section 4113 of the Public Resources Code is amended to read:

4113. The supervising forest officers shall, under the direction of the director, have charge of the firefighting system and men in such districts, and are charged with the duty of preventing and extinguishing forest fires and with the performance of such other duties as may be required by the director.

SEC. 34. Section 4114 of the Public Resources Code is amended to read:

4114. The department, in accordance with a plan approved by the board, shall do all of the following:

(a) Provide fire prevention and firefighting implements and apparatus.

(b) Organize fire crews and patrols.

(c) Establish observation stations and other necessary structures.

(d) Employ men to effect the plan.

(e) Construct and maintain telephone lines and provide such

other means of communication as are necessary to prevent and extinguish forest fires.

SEC. 35. Section 4115 of the Public Resources Code is amended to read:

4115. In providing communications and necessary powerlines in connection with the prevention and extinguishment of forest fires the department, with the approval of the Department of General Services, may enter into contracts with the owners of similar facilities for use of their facilities, such as pole lines. Provision may be made for indemnification and holding harmless of the owners of such facilities which are so used by reason of such use. Insurance may be purchased by the Department of General Services, upon request of the department to protect the state against loss or expense arising out of any such contract.

SEC. 36. Section 4118 of the Public Resources Code is amended to read:

4118. The burning of growing, dead, or downed vegetation is for a public purpose if the department has determined that the burning of such vegetation is necessary for the prevention or suppression of forest fires.

SEC. 37. Section 4119 of the Public Resources Code is amended to read:

4119. The department, or its duly authorized agent, shall enforce the state forest and fire laws. The department may inspect all properties, except the interior of dwellings, subject to the state forest and fire laws, for the purpose of ascertaining compliance with such laws.

SEC. 38. Section 4133 of the Public Resources Code is amended to read:

4133. The department shall, with the approval of the Department of General Services, annually enter into a contract with any county which enacts an ordinance as provided in Section 4129.

SEC. 39. Section 4141 of the Public Resources Code is amended to read:

4141. The department may, for the prevention and suppression of forest fires, enter into cooperative agreements, with the approval of the Department of Finance, with any person, firm, association or corporation that owns or controls any forest, brush, grass, or grain lands, under such terms as he deems advisable, and may renew, revise, or terminate such agreements.

The department also may, for the purpose of maintaining a fire patrol system for the prevention and suppression of forest fires in any timber, brush, grass or other flammable vegetation or material, enter into cooperative agreements with the federal government, under such terms as it deems advisable, and may renew, revise, or terminate such agreements.

The expenses incurred under such agreements shall be paid from appropriations or funds available for forest fire protection

SEC. 40. Section 4142 of the Public Resources Code is amended to read:

478 30 12 390 184

4142. The department may, with the approval of the Department of General Services, enter into a cooperative agreement upon such terms and under such conditions as it deems wise, for the purpose of preventing and suppressing forest fires or other fires in any lands within any county, city, or district which makes an appropriation for such purpose.

SEC. 41. Section 4151 of the Public Resources Code is amended to read:

4151. The director shall appoint, in such number and localities as he deems wise, public-spirited citizens to act as voluntary firewardens, who may receive payment for their services from the counties or from private sources. They shall promptly report all fires and take immediate and active steps toward their extinguishment, report any violation of forest fire laws, assist in apprehending and convicting offenders, and perform such other duties as the director may direct. Any United States Forest Service employee within this state, if he accepts the duties and responsibilities of a firewarden, may be appointed a voluntary firewarden, and shall have all the powers given to firewardens by this article.

Such firewardens do not have authority to obligate the state for the payment of any money, unless specifically so authorized by the director.

SEC. 42. Section 4152 of the Public Resources Code is amended to read:

4152. If a fire patrol for the prevention and suppression of forest fires is maintained by owners of land or by any organization, the director may designate each patrolman as a voluntary firewarden and, for the protection of lands patrolled by him or adjacent to such lands, may give him all the rights and powers of a voluntary firewarden. Voluntary firewardens shall be paid by such owners or organizations or as provided for by Section 4151. Such firewardens do not have authority to obligate the state for the payment of any money, unless specifically so authorized by the director.

SEC. 43. Section 4153 of the Public Resources Code is amended to read:

4153. The department or its duly authorized agent may summon any able-bodied person to assist in suppressing any forest fire and may authorize any officer of the state, who is charged with the prevention and suppression of fire or the enforcement of the state fire laws, to summon any able-bodied person to assist in suppressing any forest fire within their respective jurisdictions. An able-bodied person who is engaged in the harvest of perishable agricultural crops shall not, however, be summoned to assist in suppressing any forest fire until all other available workpower has been exhausted within the respective jurisdiction of the officer issuing such summons. No member in good standing of any regularly organized fire department shall be summoned if he is available and subject to call for duty with a firefighting unit.

SEC. 44. Section 4156 of the Public Resources Code is amended to read:

4156. The director, such employees or classes of employees of the department who may be designated by the director, and voluntary firewardens designated by the director, have the powers conferred by law upon peace officers listed in Section 830.3 of the Penal Code; provided, that the primary duty of any such peace officer shall be the enforcement of forest laws and regulations, state and county fire laws and regulations, and the laws relating to explosives as set forth in Part 1 (commencing with Section 12000) of Division 11 of the Health and Safety Code, other than laws the enforcement of which is primarily the responsibility of the State Fire Marshal. Officers, employees and voluntary firewardens, upon request pursuant to Section 8597 of the Government Code, shall have the full powers and duties of peace officers for all purposes as provided by the Penal Code and are not liable to civil action for trespass committed in the discharge of their duties.

Any such peace officer may enforce federal fire laws to the extent that he is authorized to do so.

SEC. 45. Section 4157 of the Public Resources Code is amended to read:

4157. Whenever the director or any of the employees or voluntary firewardens who are designated as peace officers pursuant to Section 4156 arrests any person for a violation of this article or for a violation of any law relating to forest or fire protection which is not a felony, he may forthwith release the arrested person from his custody in the manner and under the conditions that are set forth in Section 4158.

SEC. 46. Section 4170.5 of the Public Resources Code is amended to read:

4170.5. The department or any other duly established fire protection agency may summarily abate an uncontrolled fire as a public nuisance by controlling and extinguishing the fire.

SEC. 47. Section 4172 of the Public Resources Code is amended to read:

4172. Whenever the director determines that a public nuisance, as defined in Section 4171, exists, he shall notify the owner of the property to abate the public nuisance. If the owner is unknown, a copy of the notice shall be posted upon the property.

SEC. 48. Section 4173 of the Public Resources Code is amended to read:

4173. The board shall establish standards, based upon its determination of conditions which create an unreasonable hazard to life or property from fire, for what constitutes a hazardous condition in those instances not covered by state law. Such standards shall be established for each of the department's administrative districts after public hearing for which ample publicity is given.

SEC. 49. Section 4174 of the Public Resources Code is amended to read:

478 30 12 445 195

4174. The notice shall be in writing and shall do all of the following:

(a) Describe the public nuisance.

(b) Specify the time within which the property owner is required to abate the public nuisance.

(c) State that, unless the public nuisance is abated within the time specified in the notice, the department may abate the public nuisance and the costs of the abatement will be assessed against the property.

(d) State that the property owner may, within 15 days after the receipt or posting of the notice, request a hearing before the director upon whether or not a public nuisance actually exists.

SEC. 50. Section 4175 of the Public Resources Code is amended to read:

4175. If a property owner requests a hearing, the director shall fix a time and a place for the hearing and notify the property owner. At the time and place of the hearing, the property owner may appear and be heard upon the question of whether or not a public nuisance actually exists upon property which he owns. The hearing shall be conducted in accordance with the provisions of Chapter 2 (commencing with Section 11180), Part 1, Division 3, Title 2 of the Government Code.

SEC. 51. Section 4176 of the Public Resources Code is amended to read:

4176. If the director determines, at the conclusion of the hearing, that a public nuisance actually exists upon property owned by the property owner, he shall order the property owner to abate the public nuisance within a specified time.

SEC. 52. Section 4177 of the Public Resources Code is amended to read:

4177. If the public nuisance is not abated within the time specified in the notice to the property owner pursuant to Section 4172 or, if a hearing is not requested by the property owner, within the time specified in the order made by the director pursuant to Section 4176, the department may abate the public nuisance.

SEC. 53. Section 4178 of the Public Resources Code is amended to read:

4178. Any costs which are incurred by the department in abating any public nuisance pursuant to this article are a lien upon the property upon which the public nuisance existed when notice of the lien is filed and recorded as provided in Section 4179.

SEC. 54. Section 4179 of the Public Resources Code is amended to read:

4179. Notice of the lien, particularly identifying the property on which the nuisance was abated and the amount of such lien, and naming the owner of record of such property, shall be recorded by the department in the office of the county recorder of the county in which the property is situated within one year after the first item of expenditures by the department or within 90 days after the

478 30 12 460 198

completion of the work, whichever first occurs. Upon such recordation of the notice of lien, the lien shall have the same force, effect, and priority as a judgment lien, except that it shall attach only to the property described in such notice, and shall continue for 10 years from the time of recording of such notice unless sooner released or otherwise discharged.

SEC. 55. Section 4185 of the Public Resources Code is amended to read:

4185. The State of California hereby accepts the provisions of the Clarke-McNary Act (Ch. 348, 43 Stat. 653), as amended, passed by the Congress of the United States, and entitled "An act to provide for the protection of forest lands, for the reforestation of denuded areas, for the extension of national forests, and for other purposes, in order to promote the continuous production of timber on lands chiefly suitable therefor," and will observe and comply with the requirements of that act of Congress.

The department is the agent of this state for the purposes of the Clarke-McNary Act. The department shall have full power to cooperate with all the authorities of the United States which have powers and duties under the act to do and perform all things necessary to secure to this state the benefits of the act.

SEC. 56. Section 4251 of the Public Resources Code is amended to read:

4251. As used in this chapter:

"Hazardous fire area" means any area which is designated as a hazardous fire area by the board or the director pursuant to Section 4252 or 4253.

SEC. 57. Section 4253 of the Public Resources Code is amended to read:

4253. Whenever the director determines that a fire hazard exists in any other area due to the presence of flammable material or cover, he may by regulation designate such area to be a hazardous fire area. The regulation shall declare the period of time during which the area shall be so designated.

SEC. 58. Section 4291 of the Public Resources Code is amended to read:

4291. Any person that owns, leases, controls, operates, or maintains any building or structure in, upon, or adjoining any mountainous area or forest-covered lands, brush-covered lands, or grass-covered lands, or any land which is covered with flammable material, shall at all times do all of the following:

(a) Maintain around and adjacent to such building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

478 30 12475 201

(b) Maintain around and adjacent to any such building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth which is located from 30 feet to 100 feet from such building or structure or to the property line, whichever is nearer, as may be required by the director if he finds that, because of extra hazardous conditions, a firebreak of only 30 feet around such building or structure is not sufficient to provide reasonable fire safety. Grass and other vegetation located more than 30 feet from such building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

(c) Remove that portion of any tree which extends within 10 feet of the outlet of any chimney or stovepipe.

(d) Maintain any tree adjacent to or overhanging any building free of dead or dying wood.

(e) Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

(f) Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed of nonflammable material with openings of not more than one-half inch in size.

(g) The director may adopt regulations exempting structures with exteriors constructed entirely of nonflammable materials, or conditioned upon the contents and composition of same, he may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding said structures.

No such exemption or variance shall apply unless and until the occupant thereof, or if there be no occupant, then the owner thereof, files with the department, in such form as the director shall prescribe, a written consent to the inspection of the interior and contents of such structure to ascertain whether the provisions hereof and the regulations adopted hereunder are complied with at all times.

SEC. 59. Section 4292 of the Public Resources Code is amended to read:

4292. Except as otherwise provided in Section 4296, any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land, or forest-covered land, brush-covered land, or grass-covered land shall, during such times and in such areas as are determined to be necessary by the director or the agency which has primary responsibility for fire protection of such areas, maintain around and adjacent to any pole or tower which supports a switch, fuse, transformer, lightning arrester, line junction, or dead end or corner pole, a firebreak which consists of a clearing of not less than 10 feet in each direction from the outer circumference of such pole or tower. This section does not, however, apply to any line which is used exclusively as telephone,

478 30 12 495 205

telegraph, telephone or telegraph messenger call, fire or alarm line, or other line which is classed as a communication circuit by the Public Utilities Commission. The director or the agency which has primary fire protection responsibility for the protection of such areas may permit exceptions from the requirements of this section which are based upon the specific circumstances involved.

SEC. 60. Section 4293 of the Public Resources Code is amended to read:

4293. Except as otherwise provided in Sections 4294 to 4296, inclusive, any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land, or in forest-covered land, brush-covered land, or grass-covered land shall, during such times and in such areas as are determined to be necessary by the director or the agency which has primary responsibility for the fire protection of such areas, maintain a clearance of the respective distances which are specified in this section in all directions between all vegetation and all conductors which are carrying electric current:

(a) For any line which is operating at 2,400 or more volts, but less than 72,000 volts, four feet.

(b) For any line which is operating at 72,000 or more volts, but less than 110,000 volts, six feet.

(c) For any line which is operating at 110,000 or more volts, 10 feet.

In every case, such distance shall be sufficiently great to furnish the required clearance at any position of the wire, or conductor when the adjacent air temperature is 120 degrees Fahrenheit, or less. Dead trees, old decadent or rotten trees, trees weakened by decay or disease and trees or portions thereof that are leaning toward the line which may contact the line from the side or may fall on the line shall be felled, cut, or trimmed so as to remove such hazard. The director or the agency which has primary responsibility for the fire protection of such areas may permit exceptions from the requirements of this section which are based upon the specific circumstances involved.

SEC. 61. Section 4297 of the Public Resources Code is amended to read:

4297. Upon the showing of the director that the unrestricted use of any grass-covered land, grain-covered land, brush-covered land, or forest-covered land is, in the judgment of the director, a menace to life or property due to conditions tending to cause or allow the rapid spread of fires which may occur on such lands or because of the inaccessible character of such lands, the Governor through the director, may, by a proclamation, which declares such condition and designates the area to which, and the period during which the proclamation shall apply, require that such area be closed to hunting and fishing and to entry by any person except a person that is within one of the following classes:

(a) Owners and lessees of land in the area.

(b) Bona fide residents in the area.

478 30125 15 209

(c) Persons engaged in some bona fide business, trade, occupation, or calling in the area and persons employed by them in connection with such business, trade, occupation, or calling.

(d) Authorized agents or employees of a public utility entering such area for the purpose of operating or maintaining public utility works or equipment within the area.

(e) Members of any organized firefighting force.

(f) Any federal, state or local officer in the performance of his duties.

(g) Persons traveling on public roads or highways through the area.

SEC. 62. Section 4371 of the Public Resources Code is amended to read:

4371. As used in this chapter:

(a) "Permit" means a special permit to maintain, use or operate a rubbish dump which is issued by the department pursuant to this chapter.

(b) "Rubbish dump" means any accumulation for the purpose of disposal of any rubbish, rags, paper, boxes, crates, excelsior, petroleum products or the residue thereof, fallen timber, slash, limb wood, branches, brush, grass, leaves, litter, or other combustible or flammable materials. It does not include slash from timber operations or the temporary piling of flammable materials which have accumulated from clearing while the construction or operation is in progress in conjunction with public works, utility, or other industrial projects where such accumulation is located wholly within the exterior limits of such projects.

SEC. 63. Section 4372 of the Public Resources Code is amended to read:

4372. A person shall not maintain, use, or operate any rubbish dump outside of the exterior boundaries of any city unless he has a permit to do so issued by the department and the rubbish dump is maintained, used, or operated in strict accordance with the terms and conditions prescribed in the permit.

SEC. 64. Section 4373 of the Public Resources Code is amended to read:

4373. The department may include in the terms of the permit provisions for the prevention of uncontrolled fire. These terms may include, but are not limited to, the requirements set forth in Section 4374. The responsibility for obtaining the permit for rubbish dumps is that of the owner or operator or jointly. The permit which is issued by the department pursuant to this chapter does not relieve the owner or operator from the duty of securing any other type of permit which is required by law or any rule or regulation.

SEC. 65. Section 4417 of the Public Resources Code is amended to read:

4417. A reward of five hundred dollars ($500) shall be paid out of any state funds which are made available to the department for fire protection to any person, other than a regularly paid fireman, peace

478 30125 50 216

officer, or agent or employee of the department, whose information leads to the arrest and conviction, or commitment to a public facility, of any person who willfully and maliciously sets fire to, or who attempts to willfully and maliciously set fire to, any property which is included within any state responsibility area as established under the provisions of Article 3 (commencing with Section 4125) of Chapter 1 of this part.

Any such reward may be paid on the initiative of the department or upon application by any person qualifying therefor.

SEC. 66. Section 4423 of the Public Resources Code is amended to read:

4423. A person shall not burn any brush, stumps, logs, fallen timber, fallows, slash, grass-covered land, brush-covered land, forest-covered land, or other flammable material, in any state responsibility area, area receiving fire protection by the department by contract, or upon federal lands administered by the United States Department of Agriculture or Department of the Interior, unless he has a written permit from the department or its duly authorized representative or the authorized federal officer on federal lands administered by the United States Departments of Agriculture or Interior and in strict accordance with the terms of the permit:

(a) At any time in Zone A.

(b) At any time in Zone B between April 1st and December 1st of any year, or at any other time in Zone B during any year when the director has declared, by proclamation, that unusual fire hazard conditions exist in the area.

SEC. 67. Section 4436 of the Public Resources Code is amended to read:

4436. A person shall not refuse or fail to render assistance in combating a forest, brush, or grass fire at the summons of the department, or its authorized agent who is charged with the prevention or suppression of fire or the enforcement of the state fire laws, or any county firewarden, fireman, or county officer who is charged with the duty of preventing or combating forest, brush, or grass fires, or any officer of a county fire protection district, unless prevented from so doing by sickness or physical disability.

SEC. 68. Section 4441 of the Public Resources Code is amended to read:

4441. Any accumulation of waste material in violation of the provisions of Sections 4437 to 4440, inclusive is a public nuisance. Every person, copartnership, firm, corporation, or company that permits or allows such public nuisance to exist upon property owned, occupied, or leased by him, or it, after reasonable notice in writing has been served upon him, or it, from the department or the district attorney to remove, discontinue, or abate such nuisance, is guilty of a misdemeanor. The existence of such nuisance for each and every day after the date specified in such notice for removal, discontinuance, or abatement is a separate and distinct offense.

SEC. 69. The heading of Article 1 (commencing with Section

478 30 12570 220

4475) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code is amended to read:

Article 1. Department of Forestry Burning Contracts

SEC. 70. Section 4475 of the Public Resources Code is amended to read:

4475. The department, with the approval of the Director of Finance, may enter into a contract with the owner or any other person who has legal control of any property which is included within any area in which the financial responsibility of preventing and suppressing forest fires is primarily the responsibility of the state, excluding those areas for which the department has contracted forest fire protection to counties or the United States Forest Service, for (a) watershed management, range improvement, and fish and wildlife habitat improvement; and for (b) the burning of any brush, vegetation, or structure which is situated upon such property for the purpose of preventing or suppressing forest fires.

SEC. 71. Section 4476 of the Public Resources Code is amended to read:

4476. Any contract which is entered into by the department pursuant to this article shall do all of the following:

(a) Absolve the state and its employees of liability for damages or costs which occur as a result of the burning of the brush, vegetation, or structure.

(b) Vest in the director the final determination of the time and necessity of the burning of the brush, vegetation, or structure.

(c) Provide that the decision by the director regarding the necessity of the burning of the brush, vegetation, or structure is to be based upon the benefits to be derived by such burning in preventing or suppressing forest fires and the risks and possible damage involved in conducting such burning.

(d) Require that only personnel of the department or personnel in its employ shall be used in conducting the burning of the brush, vegetation, or structure.

(e) Provide that prior to the burning the director will submit an estimate of costs to the person contracting with the state. The person contracting with the state shall, prior to the burning, place on deposit with the department an amount equal to the estimate of costs. Upon completion of the contract, the director will determine the actual costs incurred by the state in performance of the contract and should this amount be less than that on deposit, return the balance to the person. Should the amount of actual costs be more than that amount on deposit, the department shall submit an itemized statement showing the balance due and from which the person contracting with the state shall within 90 days make payment.

(f) Provide that the person contracting with the department shall purchase a third party liability policy of insurance in an amount determined by the director. A certificate of insurance covering this

478 30 12590 224

policy shall be attached to and become a part of the contract.

SEC. 72. Section 4477 of the Public Resources Code is amended to read:

4477. If the amount of moneys due the state are not paid as provided in subdivision (e) of Section 4476, such amount shall become a lien upon the property.

(a) Notice of the lien shall be recorded by the department in the office of the county recorder of the county in which the property is situated within one year.

(b) An action to foreclose the lien shall be commenced by the Attorney General in the name of the people of the State of California within six months after the lien is filed and recorded.

(c) When the property is sold, enough of the proceeds to satisfy the lien and the costs of the foreclosure shall be paid to the state and the surplus, if any, shall be paid to the owner of the property.

SEC. 73. Section 4478 of the Public Resources Code is amended to read:

4478. Upon receipt of final payment of moneys due in performance of the contracts provided for in this article the department shall deposit such moneys in the General Fund.

SEC. 74. Section 4491 of the Public Resources Code is amended to read:

4491. The cooperation by the state, as provided in this article, with persons desiring to use controlled burning as a means of converting brush-covered lands into forage lands, which has as its objective fire prevention and protection, watershed protection and conservation, or range and forage improvement, is declared to be for a public purpose.

This article shall be administered by the department.

In furtherance of the provisions of this article, the department shall provide advisory service to applicants for controlled burning permits as to precautions to be taken by the applicant to prevent damage to the property of others by reason of such burning, and shall provide standby fire protection, to such extent as personnel, fire crews, and firefighting equipment are available.

SEC. 75. Section 4492 of the Public Resources Code is amended to read:

4492. Any person, firm, or corporation, or any group or combination of persons, firms, corporations or groups, that owns or controls brush-covered land within a state responsibility area may apply to the department for permission to burn the brush from such lands. The application shall be on a form prescribed by the department and shall contain a description of the lands and such other pertinent information as the department may require.

SEC. 76. Section 4493 of the Public Resources Code is amended to read:

4493. Upon receipt of an application the department shall inspect such land in company with the applicant to determine whether a permit shall be granted and shall suggest such precautions to be

478 30126 10 228

taken by the applicant as may be considered reasonable to prevent damage to the property of others by reason of such burning. The suggested precautions shall, if deemed necessary, include the advance preparation of firebreaks and the firefighting equipment and personnel desirable to conduct the controlled burning.

SEC. 77. Section 4494 of the Public Resources Code is amended to read:

4494. Upon the conclusion of the examination provided for in Section 4493 the department may issue to the applicant a brush-burning permit which shall specify the suggested precautions to be exercised prior to and during the burning. The issuance of a permit by the department does not relieve the holder of the permit from the duty of exercising due diligence to avoid damage to property of others in conducting the burning of brush as authorized by the permit.

SEC. 78. Section 4514.5 of the Public Resources Code is amended to read:

4514.5. Any person may commence an action on his own behalf against the board or the department 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 department to carry out any duty imposed upon them under the provisions of this chapter.

SEC. 79. Section 4525.9 of the Public Resources Code is repealed.

SEC. 80. Section 4529.5 of the Public Resources Code is amended to read:

4529.5. Service of documents where required under this chapter may be made by registered or certified mail addressed to the respondent's latest address registered on file with the department. Where other forms of service are prescribed, personal service is not precluded.

SEC. 81. Section 4538 of the Public Resources Code is amended to read:

4538. An employee of the department shall be designated by the board to serve as secretary of each district committee and shall meet with and take part in all deliberations of the committee, but shall vote only in the case of a tie.

SEC. 82. Section 4540 of the Public Resources Code is amended to read:

4540. Each committee shall advise the board in the establishment of district forest practice rules to govern timber operations on timberlands within the district. In advising the board, the committee shall not interfere with any of the powers and duties of the board. The committees shall consult with, and carefully evaluate the recommendations of, the department, concerned federal, state and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals. Each committee shall seek an optimum of interagency cooperation in identification of problems and proposing solutions.

478 30 12635 233

SEC. 82.2. Section 4551.5 of the Public Resources Code is amended to read:

4551.5. Rules and regulations shall apply to the conduct of timber operations and shall include, but shall not be limited to, measures for fire prevention and control, for soil erosion control, for water quality and watershed control, for flood control, for stocking, for protection against timber operations which unnecessarily destroy young timber growth or timber productivity of the soil, for prevention and control of damage by forest insects, pests, and disease, and for the preparation of timber harvesting plans. In developing these rules, the board shall solicit and consider recommendations from the department, recommendations from the Department of Fish and Game relating to the protection of fish and wildlife, recommendations from the State Water Resources Control Board and the California regional water quality control boards relating to water quality, and recommendations from the State Air Resources Board and local air pollution control districts relating to air pollution control.

SEC. 82.4. Section 4553 of the Public Resources Code is amended to read:

4553. The rules and regulations shall be continuously reviewed and may be revised. During the formulation or revision of such rules and regulations, the board shall consult with, and carefully evaluate the recommendations of, the department, the district technical advisory committees, concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals.

SEC. 82.6. Section 4561.1 of the Public Resources Code is amended to read·

4561.1. The resource conservation standards relating to stocking enumerated in Section 4561 shall constitute minimum requirements, and these shall be the standards to which all timber harvesting plans shall conform unless the board adopts higher stocking standards for each district. The board shall adopt standards for each district, after a public hearing, which are equal to or stricter than the standards of this chapter and shall report such standards to the Legislature.

It is not the intent of the Legislature in designating minimum standards that such standards shall be deemed to be preferred as the standards to be adopted by the board. The board may, by a majority vote as provided in Section 736, adopt higher minimum standards of stocking if, in the opinion of the board, growing conditions, tree species, site quality, or other factors justify such stricter standards and if such action is consistent with the purposes of this article.

SEC. 83. Section 4561.3 of the Public Resources Code is amended to read:

4561.3. Notwithstanding the provisions of Section 4561, on any commercial timberlands which the department has determined do not meet the minimum acceptable stocking standards prior to any timber harvest activities which may take place on such lands

between the effective date of this chapter and the adoption of permanent stocking standards pursuant to Section 4561.5, an area shall be classified as acceptably stocked if, as a result of restocking which has taken place subsequent to such harvest, it contains at least five countable trees for each tree which has been harvested.

SEC. 84. Section 4577 of the Public Resources Code is amended to read:

4577. The board may delegate its authority under this article to the director.

SEC. 85. Section 4581 of the Public Resources Code is amended to read:

4581. No person shall conduct timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted for such operations to the department pursuant to this article. Such plan shall be required in addition to the license required in Section 4571.

SEC. 86. Section 4582 of the Public Resources Code is amended to read:

4582. The timber harvesting plan shall be filed with the department in writing by a person who owns, leases, or otherwise controls or operates on all or any portion of any timberland and who plans to harvest the timber thereon. The plan shall be a public record and shall include the following information:

(a) The name and address of the timber owner.

(b) The name and address of the timber operator.

(c) A description of the land on which the work is proposed to be done, including a United States Geological Survey quadrangle map or equivalent indicating the location of all streams, the location of all proposed and existing logging truck roads, and indicating boundaries of all site I classification timberlands to be stocked in accordance with the provisions of subdivision (b) of Section 4561 and any other site classifications if the board establishes specific minimum stocking standards for other site classifications.

(d) A description of the silvicultural methods to be applied, including the type of logging equipment to be used.

(e) An outline of the methods to be used to avoid excessive accelerated erosion from timber operations to be conducted within the proximity of a stream.

(f) Special provisions, if any, to protect any unique area within the area of timber operations.

(g) The expected dates of commencement and completion of timber operations.

(h) Any other information the board provides by regulation to meet its rules and the standards of this chapter.

SEC. 87. Section 4582.4 of the Public Resources Code is amended to read:

4582.4. Notice of the filing of timber harvesting plans shall be made by the department to any person who requests, in writing, such notification.

SEC. 88. Section 4582.6 of the Public Resources Code is amended to read:

4582.6. Upon receipt of the timber harvesting plan, the department shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to the Department of Fish and Game, the appropriate California regional water quality control board, county planning agency, and, if the area is within its jurisdiction, to the California Tahoe Regional Planning Agency.

SEC. 89. Section 4582.7 of the Public Resources Code is amended to read:

4582.7. The director shall have 15 days from the date the initial inspection is completed or, in the event the director determines that such inspection need not be made, 15 days from the date of filing, as specified in Section 4604, or such longer period as may be mutually agreed upon by the director and the person submitting the timber harvesting plan, to review the plan to determine if it is in conformance with the rules and regulations of the board and with the provisions of this chapter. If the director determines that such plan is not in conformance with the rules and regulations of the board or with provisions of this chapter, he shall return the plan, stating his reasons and advising the person submitting the plan of his right to a hearing before the board, and timber operations shall not commence. A person to whom a plan is returned may, within 10 days from the receipt of such plan, request of the board a public hearing before the board. The board shall schedule a public hearing to review the plan to determine if it is in conformance with the rules and regulations of the board and the provisions of this chapter. Timber operations shall await board approval of the plan. Board action shall occur within 30 days from the filing of the appeal, or such longer period as may be mutually agreed upon by the board and the person filing the appeal. If the director does not act within 15 days, or such longer period as may be mutually agreed upon by the director and the person submitting the timber harvesting plan, timber operations may commence pursuant to such plan, and all provisions of the plan shall be followed as provided in this chapter.

SEC. 90. Section 4583.5 of the Public Resources Code is amended to read:

4583.5. If the board finds that the registered professional forester has made any material misstatement in the filing of any timber harvesting plan or report under this chapter, it shall take disciplinary action against him as provided under Section 775.

SEC. 91. Section 4585 of the Public Resources Code is amended to read:

4585. Within one month after completion of the work described in the timber harvesting plan, excluding work for stocking, a report shall be filed by the timber owner or his agent with the department that all work except stocking has been completed.

SEC. 92. Section 4586 of the Public Resources Code is amended to read:

4586. Within six months of the receipt of the work completion report specified in Section 4585, the director shall determine, by inspection, whether the work described in the timber harvesting plan, excluding stocking, has been properly completed in conformity with the rules and regulations of the board and standards of this chapter. If it has been so completed, the director shall issue a report of satisfactory completion of all items except stocking. If not, the department shall take such corrective action as he deems appropriate in accordance with the provisions of Article 8 (commencing with Section 4601) of this chapter.

SEC. 93. Section 4587 of the Public Resources Code is amended to read:

4587. Within five years after completion of timber operations on an area covered by a timber harvesting plan, a report of stocking shall be filed by the timber owner or his agent with the department. In measuring such stocking, a standardized sampling procedure approved by the board shall be employed, which shall be designed to measure the number of trees and their dispersion, subject to defined probabilities of error.

SEC. 94. Section 4588 of the Public Resources Code is amended to read:

4588. Within six months of the receipt of the stocking report, the director shall determine, by inspection, whether the stocking has been properly completed. If so, he shall issue a report of satisfactory completion of stocking. If not, he shall take such corrective action as he deems appropriate in accordance with the provisions of Article 8 (commencing with Section 4601) of this chapter.

SEC. 95. Section 4591 of the Public Resources Code is amended to read:

4591. Amendments to the original timber harvesting 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 acted upon, by the department in accordance with the provisions of Sections 4582.7 and 4583. An amendment may not extend the effective period of the plan.

SEC. 96. Section 4591.1 of the Public Resources Code is amended to read:

4591.1. The board shall specify by regulation those deviations which may be undertaken by an operator without submission of an amended plan but which must subsequently be reported to the department, and provide for the manner of so reporting.

SEC 97. Section 4592 of the Public Resources Code is amended to read:

4592. Notwithstanding any other provisions of this chapter, a registered professional forester may in an emergency, on behalf of a timber owner or operator, file an "emergency notice" with the department that shall allow immediate commencement of timber operations. Such emergency notice shall include a declaration, under

penalty of perjury, that a bona fide emergency exists which requires immediate harvest activities. Such emergencies shall be defined by the board and may include, but need not be limited to, the necessity to harvest in order to remove fire-killed or damaged timber, or insect or disease-infested timber, or to undertake emergency repairs to roads.

SEC. 98. Section 4604 of the Public Resources Code is amended to read:

4604. The department shall provide for an initial inspection of the area in which timber operations are to be conducted within 10 days from the date of filing of the timber harvesting plan, or such longer period as may be mutually agreed upon by the department and the person submitting the plan, except that such inspection need not be made if the department determines that it would not add substantive information he deems necessary to enforce the provisions of this chapter. In any event, the department shall provide for inspections as follows:

(a) During the period of commencement of timber operations.

(b) When timber operations are well underway.

(c) Following completion of timber operations.

(d) At such other times as he deems necessary to enforce the provisions of this chapter.

SEC. 99. Section 4605 of the Public Resources Code is amended to read:

4605. The department may bring an action to enjoin the violation, or threatened violation, of any provision of this chapter or the rules and regulations of the board. Any such proceedings shall be in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. If in such a proceeding it shall appear from facts shown by affidavit or verified complaint that any such violation has occurred or is threatened, the court may issue a temporary restraining order restraining and ordering the immediate discontinuance of any timber operation in which such violation has occurred or is threatened pending a hearing on the matter.

The court may, upon a finding that immediate and irreparable harm is threatened to soil resources or the water of the state by virtue of erosion, pollution, or contamination, order the defendant to take appropriate emergency corrective action, authorize the department to order the defendant to take such action, or authorize the department to take emergency action to correct a violation of this chapter. Any expenses incurred by the department in taking action in conformity with such order shall be a lien upon the property upon which such action was taken when notice of the lien is recorded. Such lien shall be subject to the provisions of Section 4608.

SEC. 100. Section 4606 of the Public Resources Code is amended to read:

4606. If upon a hearing to show cause why a preliminary injunction should not be issued, or upon a hearing of any motion for

a preliminary injunction, or if the court should find in any such action that any such defendant is violating, threatens to violate, or has violated, any provision of this chapter or rules and regulations of the board, the court may not only order the discontinuance of any timber operations in which such violation has occurred, is threatening to occur, or is occurring, but may also enjoin any further timber operations by the defendant in this state until the violations complained of have been corrected or until satisfactory provisions have been approved by the court for the violations to be corrected at a specified date. Any defendant in such proceedings may enter into a written agreement with the department assuring that such defendant will resume operations in compliance with the provisions of this chapter or the rules and regulations of the board and correct the violations on such reasonable terms and conditions as the department may require. Upon approval by the court, any temporary restraining order, preliminary injunction, or permanent injunction may include or be amended to include an order that any defendant entering into such an agreement comply with the terms of such agreement as a condition for engaging in any timber operations enjoined by such temporary restraining order, preliminary injunction, or permanent injunction. The court may require a cash deposit or bond payable to the department in such amount as the court deems proper to insure correction of any such violation in accordance with such agreement or any other provisions required by the court. The court may make any other orders reasonable and necessary to carry out the intent of this article.

SEC. 101. Section 4607 of the Public Resources Code is amended to read:

4607. The department may take such appropriate steps as are necessary and incur expenses to correct any violation.

SEC. 102. Section 4608 of the Public Resources Code is amended to read:

4608. Prior to taking any corrective action, other than under Section 4605, the department shall serve a written notice upon the person responsible for the violation. The notice shall include a statement of the corrective action to be taken, a date not less than 30 days from the date of service of the notice by which such corrective action is to be taken, and a statement that if such corrective action is not taken on or before the date specified the department may take corrective action and charge such person for the costs thereof pursuant to Section 4610. The notice shall also include a statement that if such person disagrees for any reason with the proposed corrective action or with the charging of such person with the costs thereof, he may, within 10 days from the service of the notice, request of the board a public hearing before the board.

The department may record such notice in each county wherein the land in violation is situated, together with a statement that any and all expenses incurred by the department in taking corrective action pursuant to the provisions of this article shall be a lien against

the land. Upon satisfactory proof that corrective action has been completed, the department shall record a notice to that effect.

Any expenses incurred by the department in taking such corrective action shall be a lien upon the real property upon which such action was taken when notice of the lien is recorded. Notice of the lien, particularly identifying the real property upon which such action was taken and the amount of such lien and naming the owner of such property, shall be recorded by the department, in the office of the county recorder of each county in which such property is situated within one year after the first item of expenditures by the department or within 90 days after the completion of such action, whichever first occurs. Upon such recordation, the lien shall have the same force, effect, and priority as a judgment lien, except that it shall attach only to the real property described in such notice and shall continue for 10 years from the time of the recording of such notice, unless sooner released or otherwise discharged. The lien may, within 10 years of the time of such recording, or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by recording a new notice in the office of the county recorder where the original notice is recorded, and from the time of such recordation the lien shall be extended as to such real property for 10 years, unless sooner released or otherwise discharged. The department may at any time release all or any portion of the real property subject to such lien from the lien or subordinate it to other liens and encumbrances, if it determines that the amount owed is sufficiently secured by a lien on other property or that the release or subordination of such lien will not jeopardize the collection of such amount owed. A certificate by the department to the effect that any real property has been released from such lien or that such lien has been subordinated to other liens and encumbrances shall be conclusive evidence that the real property has been released or that the lien has been subordinated as provided in such certificate.

SEC. 103. Section 4609 of the Public Resources Code is amended to read:

4609. If the corrective action is not taken on or before the date specified in the notice served pursuant to Section 4608, the department may take, or contract for the taking of, such corrective action and recover the expenses of the corrective action as provided in Section 4610. Where the person responsible makes a request for public hearing, the board, after at least 15 days written notice, shall hold a public hearing to hear the objections to the proposed action. The board may, but need not, conduct the hearing in accordance with the applicable provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. At the conclusion of the hearing, the board may make an order specifying the action to be taken by the person responsible to correct the violation, setting the time limits for such action, and authorizing the taking of such action by the department if the person responsible does not do so within the specified time.

SEC. 104. Section 4610 of the Public Resources Code is amended to read:

4610. The expenses incurred by the department in taking any corrective action pursuant to this article shall be increased by two hundred fifty dollars ($250) or 10 percent, whichever sum is higher, as administrative costs and shall constitute a debt of the person responsible, and, if not paid within 10 days after written demand therefor, may be recovered by the department in a civil action.

SEC. 105. Section 4611 of the Public Resources Code is amended to read:

4611. Neither the board, the department, nor any person authorized by the board or the department to enter upon any lands for the purpose of taking any corrective action pursuant to this article is liable to civil action for trespass for any acts which are necessary to carry out the provisions of this article.

SEC. 106. Section 4612 of the Public Resources Code is amended to read:

4612. The director shall report annually to the board and the Legislature on the enforcement and penalties applied under this article.

SEC. 107. Section 4627 of the Public Resources Code is amended to read:

4627. The board may, by regulation, delegate its authority and responsibilities under this article to the director if it determines that the director can more efficiently exercise such authority and carry out such responsibilities.

SEC. 108. Section 4645 of the Public Resources Code is amended to read:

4645. The department, in accordance with plans approved by the board, may engage in the management, protection, and reforestation of state forests.

SEC. 109. Section 4646 of the Public Resources Code is amended to read:

4646. The director, acting in accordance with policies adopted by the board, shall administer this chapter. He may exercise all powers necessary to accomplish its purposes and intent.

SEC. 110. Section 4647 of the Public Resources Code is amended to read:

4647. The department shall prepare a map setting forth the boundaries of purchase areas, and it shall prepare data relating to the forest conditions within these areas. In the preparation of the map and data the department shall be guided by, but not limited to, a report prepared and submitted to the Legislature by the California Forestry Study Committee provided for in Chapter 1086, Statutes of 1943. The department shall make the necessary surveys, examinations, appraisals, inventories, and title searches and obtain other pertinent data and information bearing on tracts of forest land offered for sale for state forest purposes.

SEC. 111. Section 4648 of the Public Resources Code is amended to read:

4648. Acquisition of forest land pursuant to this chapter shall be made only upon the approval of the director. Approval by the director shall be based on satisfactory evidence presented to him by the board as to the suitability and desirability of lands under consideration for purchase for state forest purposes. This suitability and desirability shall be predicated on, but not limited to, the following factors:

(a) That the lands are suited primarily to timber growing.

(b) That the lands represent growing capacities not below the average for the timber region.

(c) That they are favorably situated for multiple use and economical administration, management, and utilization.

The director shall not approve the acquisition of any lands pursuant to this chapter unless he receives a resolution recommending such action adopted by the board of supervisors of the county in which such lands are situated following a public hearing held by the board of supervisors on the proposed acquisition. Notice of the hearing shall be published pursuant to Section 6066 of the Government Code. The holding of a hearing shall be optional to the board of supervisors for areas of 2,000 acres or less. Upon approval of a purchase by the director, the department may negotiate for and consummate the purchase of the lands.

SEC. 112. Section 4650 of the Public Resources Code is amended to read:

4650. The director with the approval of the Director of General Services, may make sales of forest products from state forests up to two thousand dollars ($2,000) in value without advertising for bids. Any sale of forest products in excess of two thousand dollars ($2,000) shall be upon competitive bids. Advertising for bids shall be the same as is generally in use for the sale of state property.

SEC. 113. Section 4651 of the Public Resources Code is amended to read:

4651. The management of state forests and the cutting and sale of timber and other forest products from state forests shall conform to regulations prepared by the director and approved by the board. These regulations shall be in conformity with forest management practices designed to achieve maximum sustained production of high-quality forest products while giving consideration to values relating to recreation, watershed, wildlife, range and forage, fisheries, and aesthetic enjoyment. The sale of timber and other forest products is limited to raw materials only.

SEC. 114. Section 4653 of the Public Resources Code is amended to read:

4653. State-owned lands classified by the department and approved by the board as not suited to the growing of forest products, or necessary to the management of the forest, shall be sold according to state laws.

SEC. 115. Section 4654 of the Public Resources Code is amended to read:

4654. There shall be paid to each county in which lands acquired for state forest purposes are situated, out of funds hereafter made available for such purpose, an amount equivalent to taxes levied by the county on similar land similarly situated in the county in the same manner as provided in the Revenue and Taxation Code for secured property tax payments as long as the state continues to own the land. Such payments shall be based only upon the value of the forest lands used for purposes of continuous commercial forest production and not upon value of such forest land used for any other purposes, including any improvements on such lands. Determination of what constitutes similar land similarly situated shall be made by a committee consisting of the county assessor of the county in which the land is located, a representative of the State Board of Equalization and a representative of the department.

The money received by any county pursuant to this section may be expended by it for any proper state purpose not prohibited by the State Constitution.

SEC. 116. Section 4656.2 of the Public Resources Code is amended to read:

4656.2. The department shall protect the state forests from damage and preserve the peace therein.

SEC. 117. Section 4671 of the Public Resources Code is amended to read:

4671. The department may, in accordance with the policy of the board, engage in and demonstrate methods of developing, using, and protecting the forest and wild land resources of the state. To accomplish such purpose, it may, with the approval of the Department of Finance, enter into agreements with any agency of government, including the federal government, and with any person, firm, or corporation and may make expenditures for such purpose.

SEC. 118. Section 4672 of the Public Resources Code is amended to read:

4672. The department may, in accordance with the policy of the board, engage in surveys of soil, vegetation, and forest products on the forest, range, and watershed lands of the state. The department may, with the approval of the Department of Finance, enter into agreements with any agency of government, including the University of California and the federal government, and with any person, firm or corporation, for the purpose of engaging in cooperative soil, vegetation, and forest surveys and may make expenditures for such purposes.

SEC. 119. Section 4673 of the Public Resources Code is amended to read:

4673. The department, with the approval of the Director of General Services, may enter into an agreement with any federal agency for the purpose of investigating the effect of forest cover in the conservation of water and the prevention of erosion on watershed areas.

SEC. 120. Section 4674 of the Public Resources Code is amended to read:

4674. The department may, with the approval of the Department of General Services, enter into a cooperative agreement, upon such terms and under such conditions as he deems wise, for any of the following purposes, with any county, city, or district which makes an appropriation for any such purpose:

(a) The protection and forest management of any lands over which the county, city, or district has jurisdiction.

(b) The reforestation or afforestation on lands within the county, city, or district.

SEC. 121. Section 4675 of the Public Resources Code is amended to read:

4675. It is in the public interest and to the benefit of the state that forest and vegetative cover be maintained and preserved on forest and watershed lands to conserve water and soil and to prevent destructive floods.

The department, with the approval of the Director of General Services, may do any of the following:

(a) Enter into contracts with any state or federal public agency, municipal corporation, or any person, firm or corporation to establish and preserve forest and vegetative cover on forest and watershed lands.

(b) Conduct surveys and studies, formulate plans and perform all acts incidental to the establishment and maintenance of forest and vegetative cover on forest and watershed lands, including any work necessary to accomplish such purposes.

SEC. 122. Section 4676 of the Public Resources Code is amended to read:

4676. The department and its agents may enter upon, perform required work upon, and inspect lands for the purposes set forth in Section 4675.

In approving contracts and in the exercise of the emergency powers provided by Section 4675, the director shall be guided by, but not be limited to, the following principles:

(a) That the natural vegetative cover has been denuded to the extent that precipitation may create floods and serious soil depletion and erosion.

(b) That the denuded area is of a size, and the topography and soil characteristics of such a nature, that soil loss and floods will have a significant effect upon watershed values and the public welfare.

(c) That vegetative cover will not be restored by natural means in time to effectively prevent undue erosion and flood runoff, or that the natural succession of vegetation may be detrimental to the public welfare.

SEC. 123. Section 4681 of the Public Resources Code is amended to read:

4681. State nurseries shall be maintained under the management

of the department for the growing of stock for all of the following purposes:

(a) Reforestation of public and private lands.

(b) The planting of trees along public streets and highways.

(c) The beautifying of parks and schoolgrounds.

SEC. 124. Section 4682 of the Public Resources Code is amended to read:

4682. The department shall construct and maintain such buildings, improvements, and equipment, and shall employ and fix the compensation of such employees as may be necessary to carry out this article.

SEC. 125. Section 4683 of the Public Resources Code is amended to read:

4683. The department may purchase nursery stock and seed, and may distribute stock or seed for public planting or reforestation of public lands, and for the purpose of soil erosion control, watershed protection, farm windbreaks, or the production of forest products and farm woodlot products on private lands.

SEC. 126. Section 4684 of the Public Resources Code is amended to read:

4684. Trees, plants, nursery stock, and seeds which are sold pursuant to this article shall be sold at prices that are established by the department and approved by the board.

SEC. 127. Section 4684.5 of the Public Resources Code is amended to read:

4684.5. Notwithstanding Section 4684, the director may give such forest seedlings or native plants for the purposes of reforestation or soil erosion control at the end of each season's sales as are, in his determination, surplus, to private persons or nonprofit organizations for planting on state, federal, or other public property. Any person or nonprofit organization requesting such surplus forest seedlings or native plants shall provide such information as the director determines is necessary to insure that the forest seedlings or native plants will be planted on public property and that they are sufficiently compatible with the proposed planting area to have a reasonable chance for survival.

SEC. 128. Section 4692 of the Public Resources Code is amended to read:

4692. The department may make surveys and prepare maps setting forth the areas of nonrestocking forest lands.

SEC. 129. Section 4693 of the Public Resources Code is amended to read:

4693. The department may undertake experiments and studies, on lands owned by the state or made available by private owners through cooperative agreements pertinent to determining costs and feasible methods of reforestation by planting, seeding, release of natural seedlings from competing brush, or other procedure deemed promising of the desired results, and involving also brush removal and control, soil preparation and control of rodents or other

destructive organisms.

SEC. 130. Section 4694 of the Public Resources Code is amended to read:

4694. Experimentation and studies shall be conducted with the advice and cooperation of the University of California School of Forestry. The director may set up an advisory committee on reforestation methods and procedures. All meetings of the committee shall be open and public, and all persons shall be permitted to attend any meetings of the committee. All records of the committee shall be open to inspection by the public during regular office hours.

SEC. 131. Section 4695 of the Public Resources Code is amended to read:

4695. The department may collect the additional seed required, increase the capacity of state nurseries, purchase the necessary equipment and employ the necessary personnel to effectuate the purposes of this article.

SEC. 132. Section 4715 of the Public Resources Code is amended to read:

4715. The department, with the approval of the Department of Finance and in accordance with policy established by the board, may enter into agreements with any owner and with any agency of government, including the federal government, for the purpose of controlling or eradicating forest insects or plant diseases damaging or threatening destruction to timber or forest growth, and it may make expenditures for that purpose.

SEC. 133. Section 4716 of the Public Resources Code is amended to read:

4716. Whenever the director determines that there exists an area which is infested or infected with insect pests or plant diseases injurious to timber or forest growth and that the infestation or infection is of such a character as to be a menace to the timber or timberlands of adjacent owners, the director, with the approval of the board, may declare the existence of a zone of infestation or infection, and describe and fix its boundaries.

Thereafter, the department or its agents may go upon state and private lands within the zone of infestation or infection and shall cause the infestation or infection to be eradicated or controlled in a manner which is approved by the board.

SEC. 134. Section 4717 of the Public Resources Code is amended to read:

4717. The department may make the necessary surveys and appraisals to obtain pertinent data and information on insect infestations and disease infections. The department may make expenditures for that purpose.

SEC. 135. Section 4718 of the Public Resources Code is amended to read:

4718. Whenever the director determines that insect or disease control work within the designated zone of infestation or infection

is no longer necessary or feasible he shall, with the approval of the board, dissolve the zone.

SEC. 136. Section 4722 of the Public Resources Code is amended to read:

4722. Upon the finding of the Department of Parks and Recreation or the director, or both, that any Sequoia gigantea grove is suitably situated and is of a size and character which justifies its preservation by and for the public, it is the policy of the state to acquire the grove for preservation and conservation purposes.

SEC. 137. Section 4723 of the Public Resources Code is amended to read:

4723. Pursuant to Sections 4721 and 4722, the Department of Parks and Recreation, or the department, on favorable recommendation of the board, may acquire any forested lands on which are found growing trees of the species Sequoia gigantea when, in the opinion of the commission or the board, the acquisition of such forested lands is necessary to the preservation of the Sequoia trees and to the public welfare.

SEC. 138. Section 4724 of the Public Resources Code is repealed.

SEC. 139. Section 4772 of the Public Resources Code is amended to read:

4772. The department shall engage in a program of experimental controlled land clearance and revegetation with respect to lands which are used or useful principally for range or forage purposes and which lie within state responsibility areas. This program shall also include such research as may be necessary before and after clearance of the lands to determine the value of the methods used in relation to the purposes of this article.

SEC. 140. Section 4773 of the Public Resources Code is amended to read:

4773. The department shall determine the effects of the clearance and the value of the methods used, with reference to fire protection and prevention, watershed protection and conservation, the prevention of soil erosion, and the increased economic value of the cleared lands insofar as they are made available for range and forage purposes.

SEC. 141. Section 4774 of the Public Resources Code is amended to read:

4774. The department shall, from time to time, prepare reports setting forth data as to the experiments conducted and its findings and conclusions, and shall submit the reports to the Legislature upon the convening of each regular session.

SEC. 142. Section 4775 of the Public Resources Code is amended to read:

4775. All state agencies and other official organizations, and all persons connected with them, shall give the department full information and reasonable assistance in any matters of research requiring recourse to them, or to data within their knowledge or control, with reference to the purposes of this article.

SEC. 143. Section 4776 of the Public Resources Code is amended to read:

4776. This article does not affect the expenditure of funds appropriated for the support of the department for related purposes in performance of its ordinary functions of fire protection.

SEC. 144. Section 4782 of the Public Resources Code is amended to read:

4782. This article shall be administered by the department.

SEC. 145. Section 4783 of the Public Resources Code is amended to read:

4783. The department may enter into contracts or cooperative agreements with any person, firm, public or private corporation, district, or municipal corporation, or other political subdivision of the state, or any group or combination of them, that owns or controls brush-covered land within any state responsibility area for the purpose of engaging in controlled land clearance and revegetation, including the burning of brush from such lands, or portions of such lands, under the supervision of the department or by the department.

SEC. 146. Section 4784 of the Public Resources Code is amended to read:

4784. In furtherance of such contracts and agreements, and also independently of them, the department shall engage in experimental land clearance and revegetation of such lands in the interests of protection and improvement of range and forage lands and shall also engage in such research in connection with it as will enable it to determine the value of such methods in relation to the several purposes and interests of the people of the state as set forth in this article.

SEC. 147. Section 4785 of the Public Resources Code is amended to read:

4785. The department shall from time to time prepare reports setting forth data as to the experiments so conducted and its findings and conclusions with reference thereto and submit these reports to the board for its guidance and assistance in determining the policy to be followed by the board with reference to range and forage lands. The board shall make these reports available to the Legislature.

SEC. 148. Section 4786 of the Public Resources Code is amended to read:

4786. In making such experiments and in conducting or supervising land clearance pursuant to the agreements or contracts contemplated by this article, the department shall have available such fire crews and firefighting equipment as it deems reasonably necessary to prevent the spread of any fire from the area proposed to be cleared, if such equipment and fire crews are not needed for the control of wildfire.

SEC. 149. Section 4787 of the Public Resources Code is amended to read:

4787. The department, with the approval of the board, may make

such regulations as are necessary to effectuate the purposes of this article.

SEC. 150. Section 4788 of the Public Resources Code is amended to read:

4788. The department may accept contributions of money from any private source to carry out the powers and duties imposed upon it by this article.

SEC. 151. Section 4952 of the Public Resources Code is amended to read:

4952. As used in this chapter "California Conservation Camps" or "camps" means any camps now or hereafter established, as provided by law, for the purpose of receiving prisoners committed to the custody of the Director of Corrections and wards committed to the Director of the Youth Authority, and in which the work projects performed by the inmates or wards are supervised by employees of the department.

SEC. 152. Section 4953 of the Public Resources Code is amended to read:

4953. The department shall utilize such inmates and wards assigned to conservation camps in performing fire prevention, fire control, and other work of the department. At such times as it deems proper and on such terms as it deems wise the department may enter into contracts or cooperative agreements with any public agency, state or federal, for the performance of other conservation projects which are appropriate for such public agencies under policies which shall be established by the Correctional Industries Commission. The charge for such service shall be determined by the director. All such contracts are subject to the approval of the director and the Director of General Services.

SEC. 153. Section 4957 of the Public Resources Code is amended to read:

4957. Conservation camp inmates and wards may be utilized in the rescue of lost or injured persons, and the saving of life and protection of property. The department may cooperate with local agencies of government to accomplish this purpose.

CHAPTER 1301

An act to add Chapter 8 (commencing with Section 5820) to Division 5 of the Public Resources Code, relating to Mendocino Woodlands Outdoor Center and making an appropriation therefor.

[Approved by Governor September 22, 1976 Filed with Secretary of State September 29, 1976]

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

SECTION 1. Chapter 8 (commencing with Section 5820) is added to Division 5 of the Public Resources Code, to read:

CHAPTER 8. MENDOCINO WOODLANDS OUTDOOR CENTER

5820. This chapter shall be known and may be cited as the Mendocino Woodlands Outdoor Center Act.

5821. The Legislature finds that there is need for a program to enable the children of the state to better comprehend the outdoors, particularly the social and economic importance of the study, conservation, protection, and utilization of natural resources. The Legislature further finds that the location and facilities of the Mendocino Woodlands Outdoor Center are especially well suited to serve primarily as an outdoor education center under the control and management of the Department of Parks and Recreation, as a unit of the state park system.

5822. The Legislature hereby declares its intent that the Mendocino Woodlands Outdoor Center, consisting of land and facilities deeded to the State of California by the United States of America for public park, recreational, and conservation purposes, shall hereafter be maintained, provided, and operated for the benefit of the people of the state, primarily as an outdoor environmental education facility.

5823. As used in this chapter, unless the context clearly requires a different meaning:

(a) "Department" means the Department of Parks and Recreation.

(b) "Center" means the Mendocino Woodlands Outdoor Center, consisting of 720 acres, more or less, of state-owned land and improvements located within the east half of the Northeast Quarter and the east half of the Southeast Quarter of Section 13 of the east half and southwest quarter of the Northeast Quarter and the east half and southwest quarter of the Southeast Quarter of Section 24 of T. 17 N., R. 17 W., M.D.B.M.; the north half and southwest quarter of the Northwest Quarter and the north half of the Northeast Quarter of Section 18 of, and the west half of the Northwest Quarter of Section 30 of, T. 17 N., R. 16 W., M.D.B.M.

(c) "Area" means the Mendocino Woodlands Special Treatment Area within the Jackson State Forest, consisting of 2,550 acres, more or less, of state-owned lands lying within the south half of Section 12 of; the Northwest Quarter, the west half of the Northeast Quarter, the west half of the Southeast Quarter, and the Southwest Quarter of Section 13 of, the Northeast, Southeast, and Southwest Quarters of Section 14 of, the northeast quarter of the Northeast Quarter of Section 22 of, the north half of Section 23 of, the Northwest Quarter, the northwest quarter of the Northeast Quarter, and the northeast quarter of the Southwest Quarter of Section 24 of, T. 17 N., R. 17 W., M.D.B.M.; and the Southwest Quarter of Section 7 of the southeast quarter of the Northwest Quarter, the south half of the Northeast

Quarter, the northwest, northeast, and southwest quarters of the Southeast Quarter and the Southwest Quarter of Section 18 of, and the Northwest Quarter and west half of the Southwest Quarter of Section 19 of, T. 17 N., R. 16 W., M.D.B.M.

5824. Jurisdiction and control of the center, consisting of 720 acres, more or less, and all the improvements thereon as described in subdivision (b) of Section 5823 is hereby transferred to the department from the Department of Conservation, and shall be administered as a unit of the state park system; except that access shall be provided through the center to the area, as described in subdivision (c) of Section 5823, for purposes of cutting timber under the authority of the State Forester exercised pursuant to Article 3 (commencing with Section 4645) of Chapter 9 of Part 2 of Division 4, in a manner acceptable to the State Forester.

It is the intent of the Legislature that title in the aforementioned lands and facilities shall continue to vest in the State of California; and if for any reason their use for the purposes of this chapter be deemed by the department no longer to be in the public interest, then they shall be restored through future legislation to the jurisdiction and control of the Department of Conservation.

5825. The department shall prepare a plan for the protection and management of the center and shall submit the plan to the Legislature, for its consideration, no later than January 15, 1977. The plan shall include, but need not be limited to, the following considerations.

(a) Means of ensuring the health, safety and comfort of center users while, at the same time, ensuring that the natural and rustic aspects of the center and its facilities are preserved.

(b) The need for providing additional, all-weather lodging, dining and instructional facilities suitable for use by schoolchildren.

(c) The protection and utilization of those resources of the center useful for outdoor study.

(d) The suitability of the center for public uses, other than outdoor education, appropriate to the state park system.

(e) The suitability of the continued use of the center by cultural, social, and youth organizations similar to those which have used the center prior to the effective date of this chapter.

(f) The relationship of the center to the Jackson State Forest, Jughandle Creek, Pygmy Forest Park project, Big River project, Mendocino Headlands Park project, and other adjacent or nearby recreational, scientific, or scenic resources, so as to assure optimum public access, use, and enjoyment of such sites and resources.

(g) The advisability of transferring or acquiring additional lands so as to ensure the administrative efficiency of the center.

(h) The organizational and funding requirements of programs proposed to be undertaken at the center in accordance with this chapter.

(i) Estimated utilization rates and the nature and level of fees necessary to make the center program essentially self-sustaining.

5826. The department shall consult with the Department of Education, and may cooperate with individuals and agencies having jurisdiction or expertise in matters pertaining to the outdoor education programs contemplated in this chapter.

5827. The department may enter into operating agreements with any qualified, nonprofit entity for the provision of any program or service contemplated in this chapter. Prior to entering into any such agreement, the department shall submit a copy of the proposed agreement to the Legislative Analyst for his review and recommendations, which shall not, however, be binding. Failure of the Legislative Analyst to respond within 30 days after submission of a proposed agreement shall be deemed to constitute approval by the Legislative Analyst of the proposed agreement.

5828. The department is encouraged to establish an advisory committee of persons interested and knowledgeable in the operation and nature of the center, and in the formulation and conduct of outdoor environmental education programs, to assist it in formulating the plan and actions contemplated in this chapter.

5829. Prior to authorizing the sale and cutting of timber from the area described in subdivision (c) of Section 5823, the State Forester shall solicit and consider the recommendations of the Department of Parks and Recreation with respect to the prevention of unnecessary or unreasonable interruption or loss of facilities or resources essential to center operations.

SEC. 2. 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 two hundred thousand dollars ($200,000), for expenditure, for the purposes of this act, during the 1976–77, 1977–78, and 1978–79 fiscal years, in accordance with the following schedule:

Schedule:

(a) Center planning	$25,000
(b) Maintenance and improvements, Mendocino Woodlands Outdoor Center	175,000

CHAPTER 1302

An act to amend Section 12987 of, and to add Chapter 3 (commencing with Section 12225) to Part 4.5 of Division 6 of, the Water Code, relating to Sacramento-San Joaquin Delta levees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1976 Filed with Secretary of State September 29, 1976]

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

SECTION 1. Chapter 3 (commencing with Section 12225) is added to Part 4.5 of Division 6 of the Water Code, to read:

CHAPTER 3. SACRAMENTO-SAN JOAQUIN DELTA LEVEES

Article 1. Plan for Improvement

12225. The plan for improvement of the Sacramento-San Joaquin Delta levees, as set forth in Bulletin No. 192 of the Department of Water Resources, dated May 1975, is approved as a conceptual plan to guide the formulation of projects to preserve the integrity of the delta levee system.

Article 2. Construction

12226. The department may prepare detailed plans and specifications for the improvement of the levees or levee segments specified in Section 12225.

12226.1. The department shall report on its recommendations to the Legislature concerning the improvement of the levees specified in Section 12225, including, but not limited to, recommendations concerning construction, cost sharing, land use, zoning, flood control, recreation, fish and wildlife habitat, and aesthetic values. The department shall submit interim reports to the Legislature concerning the status of the delta levees program on or before January 15 of each year beginning in 1978, with the final report on its recommendations to be made on or before January 15, 1980.

12226.2. The department may proceed immediately with the improvement of a pilot levee project which the department determines, after a public hearing, is in critical need of improvement and which is highly susceptible to failure in the absence of such immediate improvement. Prior to commencing such improvement, the department shall enter into an agreement with a local agency whereby the local agency will bear at least 20 percent of the cost of the improvement.

Article 3. Short Title

12227. This chapter shall be known and may be cited as the "Nejedly-Mobley Delta Levees Act".

SEC. 2. Section 12987 of the Water Code is amended to read:

12987. Local agencies maintaining nonproject levees shall be eligible for reimbursement pursuant to the provisions of this part upon submission to and approval by the board of plans for the maintenance and improvement of such nonproject levees, including plans for the annual routine maintenance of such levees, in accordance with the criteria adopted by the board. Such plans shall also be compatible with the plan for improvement of the delta levees as set forth in Bulletin No. 192 of the department, dated May, 1975,

and as approved in Section 12225, and shall include such provision for protection of the wildlife habitat as the board deems proper. Such plans shall also take into account the most recently updated Delta Master Recreation Plan prepared by the Resources Agency. Upon approval of such plans by the board, the local agencies shall enter into an agreement with the board to perform the maintenance and improvement work, including the annual routine maintenance work, specified in such plans. In the event that applications for state funding in any year exceed the state funds available, the board shall apportion the funds among those levees or levee segments that are identified by the department as most critical and beneficial, considering the needs of flood control, water quality, recreation, and wildlife.

SEC. 3. The sum of three hundred fifty thousand dollars ($350,000) is hereby appropriated from the General Fund in accordance with the following schedule:

Schedule:

(a) To the Department of Water Resources for expenditure without regard to fiscal years for the purposes of Chapter 3 (commencing with Section 12225) of Part 4.5 of Division 6 of the Water Code $150,000

(b) To the Department of Water Resources for expenditure during the 1976–1977 fiscal year for the purposes of Part 9, (commencing with Section 12980) of Division 6 of the Water Code $200,000

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 available for expenditure during the 1976–77 fiscal year the funds appropriated by this act for the maintenance and improvement of levees in the Sacramento-San Joaquin Delta and to provide vitally needed flood protection at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1303

An act to amend Section 846 of the Civil Code, and to add Section 623 to the Penal Code, relating to caves.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 846 of the Civil Code is amended to read:

846. An owner of any estate in real property owes no duty of care to keep the premises safe for entry or use by others for fishing, hunting, camping, water sports, hiking, spelunking, riding, including animal and all types of vehicular riding, rock collecting, or sightseeing or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purposes, except as provided in this section.

An owner of any estate in real property who gives permission to another for entry or use for the above purposes upon the premises does not thereby (a) extend any assurance that the premises are safe for such purposes, or (b) constitute the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owed, or (c) assume responsibility for or incur liability for any injury to person or property caused by any act of such person to whom permission has been granted except as provided in this section.

This section does not limit the liability which otherwise exists (a) for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or (b) for injury suffered in any case where permission to enter for the above purposes was granted for a consideration other than the consideration, if any, paid to said landowner by the state; or (c) to any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner.

Nothing in this section creates a duty of care or ground of liability for injury to person or property.

SEC. 2. Section 623 is added to the Penal Code, to read:

623. (a) Except as otherwise provided in Section 599c, any person who, without the prior written permission of the owner of a cave, intentionally and knowingly does any of the following acts is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment:

(1) Breaks, breaks off, cracks, carves upon, paints, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, mars, or harms any natural material found in any cave.

(2) Disturbs or alters any evidence of archaeological prior occupation in any cave.

(3) Kills, harms, or removes any animal or plant life found in any cave.

(4) Burns any material which produces any smoke or gas which is harmful to any plant or animal found in any cave.

(5) Removes any material found in any cave.

(6) Breaks, forces, tampers with, removes or otherwise disturbs any lock, gate, door, or any other structure or obstruction designed to prevent entrance to any cave, whether or not entrance is gained.

(b) For purposes of this section:

(1) "Cave" means any natural geologically formed void or cavity

beneath the surface of the earth, not including any mine, tunnel, aqueduct, or other manmade excavation, which is large enough to permit a person to enter.

(2) "Owner" means the person or private or public agency which has the right of possession to the cave.

(3) "Natural material" means any stalactite, stalagmite, helictite, anthodite, gypsum flower or needle, flowstone, drapery, column, tufa dam, clay or mud formation or concretion, crystalline mineral formation, and any wall, ceiling, or mineral protuberance therefrom, whether attached or broken, found in any cave.

(4) "Material" means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation found in any cave.

(c) The entering or remaining in a cave by itself shall not constitute a violation of this section.

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 government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1304

An act making an appropriation for the development of coastal wetlands.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976]

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

SECTION 1. The sum of one million one hundred thousand dollars ($1,100,000) is hereby appropriated from the General Fund to the Department of Fish and Game for expenditure without regard to fiscal years for the development of the coastal wetlands located in Upper Newport Bay, Orange County, and acquired pursuant to the appropriation made in Chapter 742 of the Statutes of 1975.

It is the intent of the Legislature that this appropriation shall be made from the sum of four million five hundred thousand dollars ($4,500,000) which was received by the State of California as the state's share of the settlement in the case of State of California v. Union Oil Company of California and others and which was deposited in the General Fund.

CHAPTER 1305

An act appropriating funds for Anza-Borrego Desert State Park.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976]

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

SECTION 1. Notwithstanding the provisions of Section 5098.2 of the Public Resources Code, the sum of four hundred thousand dollars ($400,000) is appropriated from the Park and Recreation Revolving Account of the General Fund to the Department of Parks and Recreation for development of a visitors' center at Anza-Borrego Desert State Park.

SEC. 2. No funds appropriated by Section 1 of this act may be encumbered for construction until the State Public Works Board and the Department of Finance have approved preliminary plans and working drawings for the project.

SEC. 3. If the cost of the project contemplated by this act exceeds four hundred thousand dollars ($400,000), there shall be no expenditure of state funds appropriated by Section 1 of this act until the Department of Parks and Recreation certifies to the Department of Finance that it has received sufficient nonstate funds to meet all costs in excess of the funds appropriated by Section 1.

CHAPTER 1306

An act to add Section 5096.101 to the Public Resources Code, relating to the acquisition and development of Baldwin Hills Regional Park.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 5096.101 is added to the Public Resources Code, to read:

5096.101. Notwithstanding the provisions of Section 5096.87, the first four million four hundred thousand dollars ($4,400,000) that is available in the total unencumbered balance remaining in the State Beach, Park, Recreational, and Historical Facilities Fund of 1974, as provided in Section 5096.87, shall be submitted by the Secretary of the Resources Agency for appropriation, in the budget for the 1981–82 fiscal year, to the County of Los Angeles as a local grant for acquisition and development of Baldwin Hills Regional Park.

The Department of Parks and Recreation shall cooperate with the County of Los Angeles, the City of Los Angeles, and the City of

42125 298475 349

Culver City in obtaining federal or state local grants for the Baldwin Hills Regional Park project.

CHAPTER 1307

An act to add Section 18671.1 to the Government Code, relating to state civil service.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 18671.1 is added to the Government Code, to read:

18671.1. Whenever a hearing or investigation is conducted by the board or its authorized representative in regard to an appeal by an employee, such hearing or investigation shall be commenced within a reasonable time after the filing of the petition and the board shall render its decision within a reasonable time after the conclusion of such hearing or investigation, except that the period from the filing of the petition to the decision of the board shall not exceed six months and except that the board may extend such six-month period up to 45 additional days. In the event of such an extension, the board shall publish substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period. The provision relating to the six-month period for a decision may be waived by the employee but if not so waived, a failure to render a timely decision shall be deemed an exhaustion of all available administrative remedies.

CHAPTER 1308

An act to amend Sections 13832, 13838, 13846.8, 14023, 14031, 14056, 14070, 14084.1, 14116.5, 14116.10, 14280, and 14284 of, to add Sections 13846.5, 13946, 13969, and 14283 to, and to repeal Sections 13846.5, 14283, and 14371 of, the Education Code, relating to the State Teachers' Retirement System and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 13832 of the Education Code, as amended by Chapter 809 of the Statutes of 1975, is amended to read:

13832. "Compensation" and "salary" mean remuneration in cash payable by the employer to the member, and includes any amount deducted from the member's salary for payment to one other than the member for the purpose of purchasing an annuity contract for the member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States, plus any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 8 (commencing with Section 18310) of Part 1 of Division 5 of Title 2 of the Government Code or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

"Compensation" and "salary" do not mean and shall not include:

(a) Job-related expenses.

(b) Money paid to the employee for overtime service.

(c) Compensatory damages and money paid to the member in excess of regular salary as a compromise settlement of a dispute arising from termination of a member's employment contract.

(d) Lump-sum payments for accumulated sick leave or accumulated vacation leave.

(e) Money paid for summer school employment.

(f) Money paid as a bonus.

(g) Tax-sheltered annuity contributions which do not result in a reduction of the earned contract salary paid to the employee.

(h) Fringe benefits paid for by the employer in lieu of salary.

(i) Money not available for payment of salaries and which is applied by an employer for the purchase of annuity contracts or for other insurance programs including those which meet the requirements of Section 403(b) of the Internal Revenue Code of the United States.

Any such moneys paid under subdivisions (a) through (i) shall not be included as a part of the member's compensation subject to contributions reported to this system.

SEC. 2. Section 13838 of the Education Code is amended to read:

13838. "Final compensation" means the highest average annual compensation earnable by a member during any period of three consecutive years during his membership in the system or time during which he was not a member but for which he has received credit under the system, except such time as was so credited pursuant to the provisions of Section 13999. The last three consecutive years of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

For the purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for such breaks.

Time during which a member is in state service or in the employment of a local school district or of a county superintendent and is also a member of another retirement system to which the state, a county, or the university contributes shall not be considered to be an absence for the purposes of this section, and the determination of the final compensation of such a member shall take into consideration his compensation earnable while he was a member of such other system, providing retirement under this system is concurrent with the member's retirement under the other system.

The board may specify a different final compensation with respect to benefits based on part-time service performed prior to July 1, 1956, for which credit was given under this system under board rules in effect prior to such date.

SEC. 3. Section 13846.5 of the Education Code is repealed.

SEC. 4. Section 13846.5 is added to the Education Code, to read:

13846.5. "Projected salary" means a 2-percent increase compounded annually applied to the salary used in computing the disability or family allowance. When computing a family allowance under paragraphs (3) and (4) of subdivision (e) of Section 14186, and Section 14220.7, projected salary will be computed from July 1st of the year of death to the June 30th prior to age 60. If death occurred when the member was receiving a disability allowance, projected salary will be computed from July 1st of the year in which the disability allowance was effective through the June 30th prior to age 60. When computing a family allowance under paragraphs (1) and (2) of subdivision (e) of Section 14186, when death occurs while the member was on disability, projected salary will be computed from July 1st of the year of disability to the June 30th prior to death.

SEC. 5. Section 13846.8 of the Education Code is amended to read:

13846.8. "Projected service" means "credited service" plus the service which would have been earned to age 60 had the member continued to earn credited service at the same rate as for the highest of any one of the three school years immediately preceding death or the effective date of disability.

SEC. 5.3. Section 13946 is added to the Education Code, to read:

13946. Any person who is a member who subsequently is employed by the same or a different school district or by a county superintendent, to perform duties which require membership in a different public retirement system in this state, shall continue to be a member, unless he elects, in writing and files in the office of this system, within 90 days after such entry, not to continue as a member in his new position. This section shall also apply to changes in employment effected on or after January 1, 1976, if an election is made on or before April 1, 1977.

SEC. 5.5. Section 13969 is added to the Education Code, to read:

13969. Any person who is a member of the Public Employees' Retirement System and employed by a school district or by a county superintendent, and who subsequently is employed in a position

requiring membership in this system is excluded from membership in this system if he elects, by a writing filed in the office of the Board of Administration of the Public Employees' Retirement System, within 90 days after such entry, to continue as a member of the Public Employees' Retirement System in his new position. This section shall also apply to changes in employment effected on or after January 1, 1976, if an election is made on or before April 1, 1977.

SEC. 6. Section 14023 of the Education Code is amended to read:

14023. Any person to whom service performed outside of the state after January 1, 1914, is credited and any person who has claimed exemption from the provisions of the system or its predecessor or who is excluded from the system because of being a member of another retirement system while serving in a position requiring membership in this system or its predecessor, and who later becomes subject to its provisions may pay, in addition to the sum due under Section 14022 as it read on December 31, 1974, for each year of credited service performed prior to July 1, 1944, either outside the state or while exempt or while a member of any other system, regular interest on the amount which would have been contributed had he been a member of the system when the service was performed. Regular interest shall begin to accrue on the first day of July next following the end of the school year in which the service was performed.

SEC. 7. Section 14031 of the Education Code is amended to read:

14031. Subject to rules prescribed by the board, any member may elect to make annuity deposit contributions for the purpose of providing additional retirement income. Such contributions may be remitted directly to the system by the member.

A member may at any time cancel the election and later again elect to make contributions. Accumulated annuity deposit contributions may be withdrawn as provided in Section 14075.

SEC. 8. Section 14056 of the Education Code is amended to read:

14056. If a county superintendent of schools or employing agency other than a school district submits monthly reports late or in unacceptable form, the board may assess penalties.

The board may assess penalties, based on one-half of the sum of the employer and employee contributions required by the report, for late or unacceptable submission of reports at a rate of interest approximating the average rate yielded on moneys invested by the board during the previous year, but not to exceed 5 percent per annum. The penalties so assessed are deemed interest earned in the year in which received.

SEC. 8.5. Section 14070 of the Education Code is amended to read:

14070. Upon the termination of a member's employment by any cause other than death or retirement there shall be paid to him, or if no other benefits are payable under this chapter upon the death of a member, there shall be paid to the beneficiary nominated by the deceased member:

(a) The accumulated retirement contributions made after June 30, 1935.

(b) The accumulated annuity deposit contributions.

(c) The accumulated tax-sheltered annuity contributions unless the withdrawal is made within five years of initial deposit of tax-sheltered contributions, in which case the refunded amount shall be without interest.

SEC. 10. Section 14084.1 of the Education Code is amended to read:

14084.1. Sections 14085 through 14088 apply to the transfer of assets as of June 30, 1972, as they relate to the Los Angeles Unified School District Retirement System.

SEC. 11. Section 14116.5 of the Education Code is amended to read:

14116.5. All persons on the San Francisco system retired rolls on June 30, 1972, shall remain on the local rolls. The State Teachers' Retirement System will continue the subvention in Section 14121 for those persons, will apply the percentage update and annual improvement factor to payments being made by the State Teachers' Retirement System directly to the retirant, and will pay the two-thousand-dollar ($2,000) retired death benefit upon their death. The retired death benefit will be reduced by the retired lump-sum death benefit payable by the San Francisco system.

The allowance that would have been payable had the member retired solely under the State Teachers' Retirement System, including the percentage update calculated under Sections 14332, 14333 and 14334 as those sections read on December 31, 1974, shall be taken into account in computing the amount of increase for the ten-dollar ($10) a month per year of service minimum benefit.

SEC. 12. Section 14116.10 of the Education Code is amended to read:

14116.10. Notwithstanding the provisions in Section 14211, a member of the San Francisco local system may retire concurrently and receive credit for service performed in other states of the United States, its territories and possessions and the Dominion of Canada provided that person is eligible under Sections 13998 and 13999.

SEC. 14. Section 14280 of the Education Code is amended to read:

14280. Any member prior to mailing of his first retirement allowance check and those retirants receiving an estimated allowance under Section 14374 may elect an option which is an actuarially reduced retirement allowance payable throughout the life of the member and his designated beneficiary as follows:

(a) Option 2. Upon the retirant's death, the reduced retirement allowance equal to the reduced amount the retirant was receiving shall be paid to such person as the retirant has nominated by written designation duly executed and filed with the system at the time of his retirement; or

(b) Option 3. Upon the retirant's death, one-half of the reduced

retirement allowance the retirant was receiving shall be paid to such person as the retirant has nominated by written designation duly executed and filed with the system at the time of his retirement.

A member may revoke or change his election of an option at any time prior to the mailing of his first retirement allowance check. Those retirants receiving an estimated allowance under Section 14374 shall not change the election after it has been received in the system's office in Sacramento.

After the election has been signed, then the election of the option shall be in full force and effect. If the election form is not received in the office of the system within 90 days after mailing by the system to the member the election form is void and cannot thereafter be used. The system shall then compute the allowance on the basis that no option had been elected.

SEC. 15. Section 14283 of the Education Code is repealed.

SEC. 16. Section 14283 is added to the Education Code, to read:

14283. If death occurs after the effective date of retirement stated by the member in his application for retirement, and an acceptable application is on file with the system, and an unmodified allowance was not elected, and the member has not filed an election of an option, the member shall be retired as of the effective date shown on the retirement application or such later date as specified under Section 14210 and shall be considered to have formally elected Option 2 naming the beneficiary shown on said application to receive benefits from this system.

SEC. 17. Section 14284 of the Education Code is amended to read:

14284. Any member who has qualified to make application for a retirement allowance under Section 14211 may elect, as provided in Section 14280, and without right of revocation or change after the effective date of his retirement to receive an actuarially reduced retirement allowance as of the date of his retirement, of the retirement allowance payable to him when and if he retires for service in a reduced retirement allowance according to the provisions of either option 2 or option 3 as stated in Section 14280. If the death of such member occurs after the date upon which the election has been signed, then the election shall be in full force and effect. The election shall be void if not received in the system's office in Sacramento within 30 days after the date of signature.

Upon such member's death, prior to the effective date of his retirement, the beneficiary who was nominated under the option elected and who survives shall receive an allowance calculated under such option, upon the assumption that such member retired on the date of death. The payment of such allowance to the beneficiary shall be in lieu of the family allowance provided in Section 14186 and the payment provided in subdivision (a) of Section 14070 and paragraph (1) of subdivision (b) of Section 14180, except that if the beneficiary dies before all accumulated contributions are paid the balance if any shall be paid to the estate of the person last receiving or entitled to

receive the allowance. The accumulated annuity deposit contributions and accumulated tax-sheltered annuity contributions, and the amount provided in paragraph (4) of subdivision (b) of Section 14180, shall be paid the designated beneficiary in a lump sum.

If the member subsequently retires, regardless of whether the beneficiary nominated under the option elected is then living, a reduced retirement allowance computed under Section 14280 and the option elected shall be paid.

The amount of the retirement allowance prior to applying the option factor shall be calculated at the member's age at death before retirement, or age on the last day of the month in which the member requested retirement be effective, as the case may be. The reduction of such retirement allowance under the option elected shall be based on the ages of such member and the beneficiary nominated under such option, at the date the election was signed.

SEC. 18. Section 14371 of the Education Code is repealed.

SEC. 19. The amendments to Section 13832 of the Education Code by Chapter 809 of the Statutes of 1975 were declaratory of existing law. Employing school districts or other employing agencies shall not make contributions to the Teachers' Retirement Fund because of such amendments. The amendments shall not be construed as effecting the continued receipt of any allowances nor shall any allowance be reduced under any circumstances because of any prior mistake as to the inclusion as compensation of the money described in subdivision (i) of Section 13832 of the Education Code.

SEC. 20. 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 the provisions of this act to be applicable at the commencement of the 1976–77 fiscal year, this act must take effect immediately.

CHAPTER 1309

An act to amend Sections 66700, 66715, and 66790 of, and to add Sections 6103.11, 66714.1, 66714.2, 66714.3, 66714.4, 66714.5, 66714.6, 66714.7, 66715.5, 66720.1, 66723, and 66780.5 to, and Chapter 3 (commencing with Section 66796) to Title 7.3 of, the Government Code, relating to solid waste management.

[Approved by Governor September 28, 1976 Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 6103.11 is added to the Government Code, to read:

6103.11. Section 6103 does not apply to any fee or charge for official services required by Title 7.3 (commencing with Section 66700).

SEC. 2. Section 66700 of the Government Code is amended to read:

66700. Chapters 1 and 2 of this title shall be known and cited as the Nejedly-Z'berg-Dills Solid Waste Management and Resource Recovery Act of 1972.

SEC. 2.5. Section 66714.1 is added to the Government Code, to read:

66714.1. "Disposal site" or "site" includes the place, location, tract of land, area, or premises in use, intended to be used, or which has been used for the landfill disposal of solid wastes.

SEC. 3. Section 66714.2 is added to the Government Code, to read:

66714.2. "Disposal site owner" means the person defined in Section 66715 who holds title to the property used as a disposal site after January 1, 1977.

SEC. 4. Section 66714.3 is added to the Government Code, to read:

66714.3. "Enforcement agency" means the local agency designated pursuant to Section 66796 for the purpose of carrying out the provisions of Chapter 3 (commencing with Section 66796) of Title 7.3 of the Government Code.

SEC. 5. Section 66714.4 is added to the Government Code, to read:

66714.4. "Enforcement program" means the regulations and procedures adopted by the enforcement agency pursuant to Section 66796.10.

SEC. 6. Section 66714.5 is added to the Government Code, to read:

66714.5. "Hazard" includes any condition, practice, or procedure which is or may be dangerous, harmful, or perilous to employees, property, neighbors, or the general public.

SEC. 7. Section 66714.6 is added to the Government Code, to read:

66714.6. "Local governing body" means the legislative body of the designated enforcement agency.

SEC. 8. Section 66714.7 is added to the Government Code, to read:

66714.7. "Operator" means the person defined in Section 66715 to whom the approval to operate a disposal site, transfer/processing station, or collection system is granted.

SEC. 9. Section 66715 of the Government Code is amended to read:

66715. "Person" includes an individual, firm, association, copartnership, political subdivision, government agency,

municipality, industry, public or private corporation or any other entity whatsoever.

SEC. 10. Section 66715.5 is added to the Government Code, to read:

66715.5. "Pollution" means the condition caused by the presence in or on a body of water, soil, or air of any solid waste or substance derived therefrom in such quantity, of such nature and duration, or under such condition that the quality, appearance, or usefulness of the water, soil, land, or air is significantly degraded or adversely altered.

SEC. 11. Section 66720.1 is added to the Government Code, to read:

66720.1. "Solid waste facility" includes a disposal facility, disposal site and a solid waste transfer/processing station.

SEC. 12. Section 66723 is added to the Government Code, to read:

66723. "Transfer/processing station" or "station" includes those facilities utilized to receive solid wastes, temporarily store, separate, convert, or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport. "Transfer/processing station" or "station" does not include any facility the principal function of which is to receive, store, separate, convert, or otherwise process, in accordance with state minimum standards, manure.

SEC. 13. Section 66780.5 is added to the Government Code, to read:

66780.5. In addition to the other requirements of this title, the county solid waste management plan prepared pursuant to Section 66780 shall:

(a) Include in the first revision as required in subdivision (b) an amendment delineating an enforcement program in accordance with the provisions of Chapter 3 (commencing with Section 66796), which has been reviewed by the board and the State Department of Health.

(b) Be reviewed, and revised, if appropriate, at least every three years and revised where necessary to be consistent with state policy. A report of the results of the plan review shall be submitted to the board beginning on the third anniversary of the date of board approval of the plan submitted pursuant to Section 66780 with subsequent reviews and reports due at least every three years thereafter.

SEC. 14. Section 66790 of the Government Code is amended to read:

66790. In addition to all other powers and duties under this chapter, the board shall:

(a) Conduct studies and investigations regarding new or improved methods of solid waste handling, disposal or reclamation and review and coordinate solid waste management studies by other state agencies.

(b) Prepare and implement a statewide solid waste management information storage and retrieval system coordinated with other state information systems.

(c) Implement a public information program to provide information to local government, private industry, and general maximum environmental protection, and effective reuse of waste products.

(d) Render technical assistance to state and local agencies, local health officers, and others in the planning and operation of solid waste programs.

(e) Conduct studies of the nature, extent, and methods of reducing and controlling the litter problems statewide, including, but not limited to, methods of improving public education and incentives not to litter, necessary additional legislation, and improved methods of implementing existing litter laws.

(f) Adopt and enforce all regulations reasonably necessary to carry out the policies, requirements, and duties of this title in conformity, as nearly as practicable, with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2.

(g) Assist enforcement agencies in the development, implementation, and maintenance of their inspection, enforcement, training, and regulatory programs.

(h) Organize, operate, and conduct any solid waste enforcement activity as it deems advisable upon the request of the local governing body of any city, county, or city and county and upon the appropriation for solid waste enforcement purposes by such city, county, or city and county of a sum adequate to compensate the board for the full cost of such activity.

(i) Require, as necessary, any state or local agency having jurisdiction to investigate and report on any questions or matters involved in solid waste handling and disposal. Such a requirement shall be subject to the budgetary constraints of the state or local agency.

SEC. 15. Chapter 3 (commencing with Section 66796) is added to Title 7.3 of the Government Code, to read:

CHAPTER 3. ENFORCEMENT PROGRAM

Article 1. Establishment of Enforcement Agency: Powers and Duties of Enforcement Agency

66795. This chapter of Title 7.3 shall be known and cited as the Z'berg-Kapiloff Solid Waste Control Act of 1976.

66796. On or before July 1, 1977, there shall be designated within each county an enforcement agency to carry out the provisions of this chapter. If an agency is not designated by July 1, 1977, the board, in addition to its other powers, shall be the enforcement agency within the county failing to make the designation.

(a) The designation of the enforcement agency shall be made by

any of the following procedures:

(1) The board of supervisors of the county may designate the enforcement agency subject to the approval by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county; or

(2) The county and the cities within the county may form a joint exercise of powers agreement pursuant to Section 6500 of the Government Code for the purpose of establishing an enforcement agency.

(3) The county and each city within the county may designate an enforcement agency to carry out the provisions of this chapter. In the case of a city and county, the city and county shall designate the enforcement agency.

(b) If no enforcement agency is designated and the board becomes the enforcement agency, nothing in this chapter shall prevent a designation of an enforcement agency under subdivision (a) of this section at a later date.

(c) A designation made pursuant to this section may be withdrawn in the same manner in which it was made.

(d) No local governmental department or agency which is the operating unit for a solid waste handling or disposal operation shall be the enforcement agency for the type of solid waste handling or disposal operation it conducts. A conditional waiver to this requirement may be granted by the board upon submission of details by the local entity requesting such waiver. The board may review annually effects or impacts of the waiver.

66796.10. The enforcement agency, within its jurisdiction, shall:

(a) Enforce all provisions of this chapter and the regulations adopted thereunder, and under Section 66770 pertaining to the minimum standards for solid waste handling and disposal for the protection of air, water, and land from pollution and nuisance, and for the protection of the public health.

(b) Coordinate action in solid waste handling and disposal with other federal, state and local agencies and private persons.

(c) Request enforcement by appropriate federal, state, and local agencies of their respective laws governing solid waste storage, handling, and disposal.

(d) File with the board, upon its request, information the board deems necessary.

(e) Develop, implement, and maintain inspection, enforcement, and training programs.

(f) Adopt an enforcement program consisting of regulations necessary to implement the provisions of this chapter and the standards adopted pursuant thereto, and to establish specific local standards for solid waste handling and disposal subject to approval by a majority vote of its local governing body; provided, however, that any such regulation shall be consistent with the provisions of this title and all regulations adopted by the board. The enforcement program shall also include a description of the locally adopted procedures for

carrying out the permit and inspection program pursuant to Article 2 (commencing with Section 66796.30).

(g) Keep and maintain records of its inspection, enforcement, training, and regulatory programs and of any other official action in accordance with regulations adopted by the board.

(h) Consult with the appropriate local health agency concerning all actions which involve health standards. Such consultation shall include affording the health agency adequate notice and opportunity to conduct and report such evaluation as it reasonably deems appropriate.

66796.15. If the Solid Waste Management Board becomes the enforcement agency, it may charge reasonable fees to the local governing body to recover operation costs.

66796.20. The enforcement agency may, upon a majority vote of its local governing body, prescribe, revise, and collect fees or other charges from each operator of a solid waste facility or from any person who conducts solid waste handling. Such fee or other charge shall be based upon either the weight, volume, or type of solid waste which is received or handled by any such operator or person or upon any other appropriate parameter or any combination of the foregoing commensurate with the cost of administering the program. The local governing body having rate-setting authority shall afford the private operator adequate compensation for additional costs incurred in this section through necessary rate adjustments if it is determined to be justified by the local governing body.

66796.21. The board shall review the proposed designation and the enforcement program and shall obtain the recommendation of the State Department of Health regarding the proposed designation of the enforcement agency and its enforcement program.

Article 2. Permit and Inspection Program

66796.30. (a) Any person operating a solid waste facility under an approved land use permit or under other equivalent local approval dated prior to August 15, 1977, shall file a notice of operation with the appropriate enforcement agency by August 15, 1977. If the operator was operating the facility prior to August 15, 1977, and is in compliance with the state minimum standards for solid waste handling and disposal and any applicable local ordinances and regulations, a solid waste facilities permit shall be granted.

(b) Any person who proposes to become an operator of a solid waste facility after August 15, 1977, shall file with the enforcement agency having jurisdiction over such facility an application for a solid waste facilities permit at least 120 days in advance of the date on which it is desired to commence operation.

(c) The operation of a solid waste facility by any person except as authorized pursuant to a solid waste facilities permit is prohibited.

(d) When the operator of the disposal site is not the disposal site

owner, the disposal site operator's application for a solid waste facilities permit shall contain any information that the board may require regarding the disposal site owner's interest in the real property utilized as the disposal site.

(e) After August 15, 1977, no operator of a solid waste facility shall make a significant change in the design or operation of any such facility except in conformance with the terms and conditions in a solid waste facilities permit or revised permit issued to such operator. If the operator wishes to modify the operation of a solid waste facility, the operator shall file an application for revision of the existing solid waste facilities permit. The application shall be filed at least 120 days in advance of the date when the proposed modification is to take place. Under circumstances which present an immediate danger to public health, as determined by the governing board of the enforcement agency, the 120-day filing period may be waived by the governing board.

(f) Any person who is the owner of a disposal site which is in operation after August 15, 1977, shall file with the enforcement agency having jurisdiction over the disposal site a report specifying the date when he encumbered, sold, transferred, or conveyed, or permitted to be encumbered, sold, transferred or conveyed, by agreement for sale, or in any other manner, his interest or any portion thereof in the real property utilized as the disposal site. Such report shall be filed within 30 days after any such sale, transfer or conveyance.

(g) Each report and application filed under this section shall be submitted under oath or under penalty of perjury.

(h) Each report, notice, and application filed under this section shall be submitted on a form approved by the board.

(i) Each application required to be filed under this section shall be accompanied by a filing fee according to a fee schedule established by the enforcement agency to reflect the cost of processing such applications. Any filing fee established by the enforcement agency shall be subject to approval by a majority vote of its local governing body and may not exceed an amount of five hundred dollars ($500). This fee is in addition to the fee authorized by Section 66796.20.

66796.31. The board may adopt classifications of solid waste facilities which the enforcement agency may exempt for the purposes of requiring permits under the provisions of subdivisions (a), (b), (c) and (d) of Section 66796.30. The enforcement agency may grant exemptions after a public hearing if all of the following findings are made:

(1) The exemption is not against the public interest.

(2) The quantity of solid wastes is insignificant.

(3) The nature of the solid wastes poses no significant threat to health, safety, or the environment.

66796.32. (a) Upon receipt of an application or report required by Section 66796.30, the enforcement agency shall submit a copy of

such application or report to the board within seven days.

(b) The enforcement agency shall not issue, modify, or revise a solid waste facilities permit unless it has at least 45 days in advance, provided the board and the applicant with a copy of the proposed permit which shall contain the terms and conditions the enforcement agency proposes to establish.

(c) A decision to issue or not issue the permit shall be made by the enforcement agency within 120 days of the time application is filed unless waived by the applicant.

(d) The board shall, in writing, concur or object to the issuance, modification, or revision of any solid waste facilities permit within 20 days of the board's receipt of any proposed solid waste facilities permit submitted under subdivision (b) of this section. If the board determines that the permit would not be consistent with the county solid waste management plan or the state standards, it shall object to provisions of the permit, and shall submit such objections to the enforcement agency for its consideration. If the board fails to concur or object in writing within such 20 days it shall be deemed to have concurred in the issuance of the permit as submitted to it.

66796.33. (a) The enforcement agency in issuing, modifying or revising any solid waste facilities permit shall ensure that primary consideration is given to preventing environmental damage and that the long-term protection of the environment is the guiding criteria. To achieve these purposes the enforcement agency may prohibit or condition the handling or disposal of solid waste to protect, rehabilitate or enhance the environmental quality of the state or to mitigate adverse environmental impacts. Where an operator holds a permit issued under subdivision (a) of Section 66796.30, it shall be considered controlling, and no condition imposed under this section shall be more restrictive than the terms of the permit issued under subdivision (a) of Section 66796.30.

(b) The enforcement agency may include in a solid waste facilities permit a reasonable time schedule for existing facilities for compliance with the standards adopted by the board and standards and conditions contained in the approved county solid waste management plan.

(c) Any permit may be suspended, modified, or revoked by the enforcement agency after a hearing for cause including, but not limited to, any of the following:

(1) Intentional or negligent violation of any term or condition contained in the permit.

(2) Obtaining the permit by misrepresentation, or failure to disclose fully all relevant facts.

(d) Any solid waste facilities permit issued, modified, or revised under this chapter shall be reviewed and, if necessary, revised at least every five years.

66796.34. (a) Upon compliance with the provisions of Section 66796.32 and after any necessary hearing, the enforcement agency may issue, modify, or revise a solid waste facilities permit if the board

has concurred in the permit and if the enforcement agency, in the permit, makes both of the following findings based on substantial evidence:

(1) The proposed solid waste facilities permit is consistent with the county solid waste management plan prepared under Section 66780.

(2) The proposed solid waste facilities permit is consistent with the standards adopted by the board.

The permit shall contain all terms and conditions which the enforcement agency determines to be appropriate for the operation of the solid waste facility. The operator shall comply with all terms and conditions of the permit.

(b) Within 15 days of issuing, modifying, or revising a solid waste facilities permit, the enforcement agency shall transmit to the disposal site owner and the person who is or proposes to become an operator of a transfer/processing station or a disposal site, or both, a copy of the solid waste facilities permit.

66796.35. (a) An enforcement agency or the board in issuing or reviewing any solid waste facilities permit or in connection with any action relating thereto or authorized by this title, may investigate the operation by any person of a transfer/processing station, or disposal site, collection or handling equipment, or storage area for solid wastes within its jurisdiction.

(b) In such an investigation, the enforcement agency or the board may require that any person who is or proposes to become an operator of a transfer/processing station, disposal site, collection or handling equipment, or storage area for solid wastes within its jurisdiction, shall furnish, under penalty of perjury, such technical or monitoring program reports or other reports as the enforcement agency may specify.

(c) In such an investigation, the enforcement agency or the board may inspect the facility, equipment, or vehicle used for storage, collection, transportation, processing, or disposal of solid waste, as necessary to ensure compliance with this title and that solid waste facilities permits are being complied with. Such inspection shall be made with the consent of the owner or possessor of such facilities or, if such consent is refused, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure; provided, however, that in the event of an emergency affecting the public health or safety such inspection may be made without consent or the issuance of a warrant.

66796.36. Upon the request of any person furnishing any report, notice, application or other document required by this chapter, the board or the enforcement agency shall not make available for inspection by the public those portions of such report, notice, application or other document which contain trade secrets as defined in subdivision (3) of Section 499 of the Penal Code; provided, however, that such portions of a report, notice, application, or other

document shall be made available to government agencies for the use in making reports and to the state, any state agency, or the enforcement agency in judicial review for enforcement proceedings involving the person furnishing the report. Nothing in this section shall prohibit the disclosure of information pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

Article 3. Environmental Impact Reports

66796.45. Neither the board, any enforcement agency, nor the local governing body of any enforcement agency shall be required to comply with the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code prior to the issuance to any person for the operation of any existing solid waste facility of a solid waste facilities permit for which a notice of operation under subdivision (a) of Section 66796.30 is filed during the interim period beginning on July 1, 1977 and ending on August 15, 1977. This section does not apply to any significant change in the design or operation of any existing solid waste facility for which a report is required to be filed under subdivision (c) of Section 66796.30.

66796.46. For purposes of Section 66796.45, an existing solid waste facility is any such facility for which, before August 15, 1977, a notice of determination or notice of exemption had been filed with the state and the applicable period limiting actions has expired pursuant to Section 21167 of the Public Resources Code or which was a project undertaken, carried out, or approved prior to the effective date of the provisions of the California Environmental Quality Act of 1970, Division 13 (commencing with Section 21000) of the Public Resources Code; provided, however, that an existing solid waste facility shall not include any such facility which is the subject of any action or proceeding pursuant to Sections 21168 or 21168.5 of the Public Resources Code.

Article 4. Administrative Enforcement and Remedies Available to an Enforcement Agency

66796.50. (a) Any person who is operating or proposes to operate a transfer/processing station or disposal site, or both, in violation of the solid waste facilities permit, or who is operating or proposes to operate any such facility without a solid waste facilities permit, or who owns a disposal site and causes or permits the operator of such disposal site to violate a solid waste facilities permit or to operate such disposal site without a solid waste facilities permit, shall, upon order of the enforcement agency, cease and desist any improper action, clean up any solid waste, abate the effects thereof, or take any other necessary remedial action.

(b) If any of the circumstances set forth in subdivision (a) pose an

imminent threat to life or health, the enforcement agency may expend any available moneys to perform any cleanup and abatement, or remedial work required.

(c) If the circumstances set forth in subdivision (a) do not pose an imminent threat to life or health but the enforcement agency deems it necessary for the public health to perform cleanup and abatement work or remedial work, the enforcement agency shall petition the hearing panel provided for in Section 66796.58 for authorization to perform such work. Upon receiving such a petition, the hearing panel may do either of the following:

(1) Summarily deny the petition, if it fails to allege sufficient facts to establish that such work is necessary to protect the public health.

(2) Hold a hearing on the matter and thereafter deny, grant, or grant in part the petition.

(d) If the hearing panel grants a petition submitted under subdivision (c), the hearing panel shall in a written decision specify the nature of actions that the enforcement agency may take and the maximum amount of moneys to be expended for such actions.

(e) Any action taken pursuant to subdivision (b), (c), or (d) may be taken in default of, or in addition to, remedial work by the operator or other persons, and regardless of whether injunctive relief is being sought. The enforcement agency may perform the work itself, or by or in cooperation with any other governmental agency or private contractor, and may use rented tools or equipment, either with or without operators furnished.

Notwithstanding any other provisions of law, the enforcement agency may enter into oral or written contracts for such work, and the contracts, whether written or oral, may include provisions for equipment rental and in addition the furnishing of labor and materials necessary to accomplish the work. Any such contract by the board shall be exempt from approval by the Department of General Services pursuant to the provisions of Section 14780 of the Government Code.

(f) If such solid waste is cleaned up, the effects thereof abated, or other necessary remedial action is taken by any governmental agency, the person or persons who committed such action, within the meaning of subdivision (a), shall be liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up such operation, abating the effects thereof, or taking other remedial action. The amount of such costs shall be recoverable in a civil action by, and paid to, such governmental agency together with the costs of suit incurred by the agency in recovering such moneys. The agency shall reimburse the board to the extent of the latter's contribution from any available moneys.

66796.51. (a) Any person who operates a solid waste facility except as permitted by a solid waste facilities permit, or who owns a disposal site and intentionally or negligently causes or permits the operator of such disposal site to violate a solid waste facilities permit or to operate such disposal site without a solid waste facilities permit,

or who intentionally or negligently violates any standard adopted by the board for the storage or removal of solid wastes, shall be subject to a civil penalty not to exceed one thousand dollars ($1,000) for each day such violation or operation occurs.

(b) Any attorney authorized to act on behalf of the enforcement agency, at the request of the enforcement agency, shall petition the superior court to impose, assess, and recover the sums provided in subdivision (a). Should the enforcement agency fail to so petition the superior court, the Attorney General shall, at the request of the board, petition the superior court to impose, assess and recover such sums. Funds collected shall be paid one-half to the General Fund and one-half to the county in which such action is brought, if brought by the Attorney General, or entirely to a city if brought by a city attorney, or entirely to a county if brought by a county counsel or district attorney.

(c) Remedies under this section are in addition to and do not supersede or limit, any other remedies, civil or criminal.

66796.52. Whenever an enforcement agency finds that any person is operating a solid waste facility or proposes to operate such a facility which causes or threatens to cause a condition of hazard, pollution or nuisance, constituting an emergency requiring immediate action to protect the public health, welfare, or safety, the enforcement agency may issue a cease and desist or cleanup order under this section. Should the enforcement agency fail to issue such an order, the board may do so.

Article 5. Denial, Suspension, or Revocation of Permits

66796.55. (a) If the enforcement agency denies a permit, or if the applicant deems the terms and conditions of the proposed permit inappropriate, the applicant may request a hearing. The hearing shall be held in accordance with Sections 66796.58, 66796.59, and 66796.60.

(b) A hearing to determine whether a permit should be issued shall be initiated by the filing of a statement of issues by the enforcement agency. The enforcement agency shall file such a statement within 15 days after receiving a written request from an applicant for a hearing. The statement of issues shall be a written statement specifying the statutes and rules with which the applicant shall show compliance by producing proof at the hearing and any particular matters which come to the attention of the enforcement agency which would authorize a denial of the permit.

The statement of issues and a notice of defense shall be served personally on the applicant or by registered mail at least 20 days prior to the hearing. Service by registered mail shall be effective only if a rule of the enforcement agency requires the applicant to file his address with the enforcement agency and to notify the enforcement agency of any change and if a registered letter containing the statement of issues and accompanying materials is mailed, addressed

to the applicant at the latest address on file with the agency. The notice of hearing shall be in a form approved by the board.

66796.56. (a) After a hearing, any permit may be suspended, modified, or revoked by the enforcement agency for cause, including but not limited to, any or all of the following:

(1) A violation of any term or condition contained in the permit.

(2) Having obtained the permit by misrepresentation or failing to disclose fully all relevant facts.

(3) A change in any condition that requires either a temporary or permanent modification, reduction, or elimination of the permitted operation to bring it into compliance with the requirements of this chapter.

(b) A hearing to determine whether a permit should be revoked, suspended, or modified shall be initiated by the enforcement agency filing an accusation. The accusation shall be a written statement of charges which sets forth in ordinary and concise language the acts or omissions with which the permittee is charged. It shall specify the statutes and rules which the permittee is alleged to have violated, but shall not consist merely of charges phrased in the language of such statutes and rules.

(c) The accusation and all accompanying documents shall be served personally on the permittee or by registered mail. Service by registered mail shall be effective only if an enforcement agency rule requires the permittee to file his address with the agency and to notify the agency of any change and if a registered letter containing the accusation and accompanying documents is mailed, addressed to the permittee at the latest address on file with the agency.

(d) The agency shall include with the accusation a form entitled Notice of Defense which, when signed by or on behalf of the permittee and returned to the agency, will acknowledge service of the accusation and constitute a Notice of Defense under Section 66796.57. The accusation shall also be accompanied by a statement that the permittee may request a hearing by filing a Notice of Defense within 20 days after service upon him of the accusation, that failure to do so will constitute a waiver of his right to a hearing, and that he has the right to inspect and copy documents relative to the accusation. This statement shall be in a form approved by the board.

66796.57. (a) Within 20 days after service upon him, the permittee may file with the agency a Notice of Defense in which he may do one or more of the following:

(1) Request a hearing.

(2) Object to the accusation upon the ground that it does not state acts or omissions upon which the agency may proceed.

(3) Object to the form of the accusation on the ground that it is so indefinite or uncertain that he cannot identify the transaction or prepare his defense.

(b) The permittee shall be entitled to a hearing on the merits if he files a Notice of Defense, and any such notice shall be deemed a specific denial of all parts of the accusation not expressly admitted.

02439 299195 421

Failure to file such notice shall constitute a waiver of the right to a hearing, except the agency in its discretion may consent to a hearing.

(c) The Notice of Defense shall be in writing signed by or on behalf of the permittee and shall state his mailing address.

(d) A copy of any accusation or statement of issues filed by an enforcement agency shall be sent when filed to the State Solid Waste Management Board.

66796.58. All hearings required to be conducted under this chapter shall be conducted by a hearing panel of five persons appointed by the local governing body. The hearing panel shall be appointed by the local governing body under either of the following alternatives:

(1) The local governing body may appoint itself as the hearing panel; or

(2) An independent hearing panel may be appointed.

Where an independent hearing panel is appointed no more than one member of the governing body shall serve on the hearing panel. Members of the panel shall be selected for their legal, administrative, or technical abilities in areas relating to solid waste management. At least one member of the panel shall be a technical expert with knowledge of solid waste management methods and technology. At least one member shall be a representative of the public at large. Panel members shall serve for a term of two years, and may serve more than one term, but no more than two consecutive terms. If a member does not complete his or her term, the governing body may appoint a replacement to serve out the remainder of the unexpired term.

66796.59. (a) The panel shall conduct the hearing, determine the facts, and issue a decision which shall be binding on the parties unless appealed as provided in subdivision (c) of Section 66796.61. Members of the hearing panel may receive per diem and necessary expenses while conducting the hearing.

After initiation of a proceeding in which an applicant for a permit or a permittee is entitled to a hearing on the merits, a party, upon written request made to any other party prior to the hearing, is entitled to: (1) obtain the names and addresses of witnesses to the extent known to the other party including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any relevant documents in the possession or custody or under the control of the other party, including statements made by any person pertaining to the subject matter of the proceeding, all writings pertaining to the subject matter of the proceeding, and investigative reports made by or on behalf of the enforcement agency or other party pertaining to the subject matter of the proceeding.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

(b) Any party claiming his or her request for discovery pursuant to subdivision (a) has not been complied with may serve and file a verified petition to compel discovery in the superior court for the county in which the hearing will be held, naming as respondent the party refusing or failing to comply with subdivision (a). The petition shall be served upon the respondent and filed within 15 days after the respondent first failed or refused to comply with subdivision (a).

If from a reading of the petition, the court is satisfied that the petition sets forth good cause for relief, the court shall issue an order to show cause directed to the respondent; otherwise the court shall enter an order denying the petition. The order to show cause shall be served upon the respondent and his or her attorney of record in the administrative proceeding by personal service or registered mail and shall be returnable no later than 10 days from its issuance. The respondent party shall have the right to serve and file a written answer to the petition and order to show cause.

The administrative proceedings shall be stayed during the pendency of the proceeding before the superior court only if the court issues an order to show cause.

The court shall decide the case on the matters examined by the court in camera, the papers filed by the parties, and such oral argument and additional evidence as the court may allow.

The court shall no later than 30 days after the filing of the petition file its order denying or granting the petition. The order of the court shall be in writing setting forth the matters the petitioner is entitled to discover. A copy of the order shall be forthwith mailed by the clerk to the parties.

The order of the superior court shall be final and not subject to review by appeal. A party aggrieved by such order may within 15 days after the service of the superior court's order serve and file in the appropriate court of appeal a petition for a writ of mandamus to compel the superior court to set aside or otherwise modify its order.

(c) Before the hearing has commenced, the hearing panel shall issue subpoenas and subpoenas duces tecum at the request of any party for attendance of witnesses or production of documents at the hearing. Compliance with the provisions of Section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum.

This process shall be extended to all parts of the state and shall be served in accordance with the provisions of Sections 1987 and 1988 of the Code of Civil Procedure. No witness shall be obliged to attend at a place out of the county in which he resides unless the distance be less than 150 miles from his place of residence, except that the hearing panel, upon affidavit of any party showing that the testimony of such witness is material and necessary, may endorse on the subpoena an order requiring the attendance of such witness.

All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the jurisdiction of which the enforcement agency is part, shall receive fees, and all witnesses

appearing pursuant to subpoena, except the parties, shall receive mileage, in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

66796.60. (a) Oral evidence shall be taken only on oath or affirmation. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called him to testify, and to rebut the evidence against him. If the permittee does not testify in his own behalf he may be called and examined as if under cross-examination.

(b) The hearing need not be conducted according to the technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used solely for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be affected to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

66796.61. (a) In reaching a decision, official notice may be taken, prior to submission of the case for decision, of any generally accepted technical or scientific matter pertaining to solid waste management, and of any fact which may be judicially noticed by the courts of this state. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority.

(b) Within 30 days after the case is submitted for decision, the hearing panel shall issue its decision. Copies of the decision shall be sent to all parties and to the State Solid Waste Management Board. The hearing panel may conduct a hearing under this article with three members of the panel present. However, cases shall be determined by concurrence of three members. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented and the penalty, if any.

(c) The decision shall become effective 30 days after it is mailed or personally served upon the permittee unless the permittee files an appeal to the State Solid Waste Management Board. If such an appeal is filed, the decision of the hearing panel is stayed pending determination by the State Solid Waste Management Board.

(d) If the permittee fails to file a notice of defense or to appear

at the hearing, the hearing panel may take action based upon information supplied by the permittee to the enforcement agency in writing, including but not limited to the permit application. Where the burden of proof is on the permittee to establish that he is entitled to the action of the enforcement agency sought, the hearing panel may act without taking further evidence.

Nothing herein shall be construed to deprive the permittee of the right to make any showing by way of mitigation.

66796.62. A person whose permit has been revoked or suspended may petition an enforcement agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. If the enforcement agency declines to take the action requested, the petitioner, if he so requests, shall be afforded a hearing pursuant to Sections 66796.58, 66796.59, and 66796.60.

Article 6. Administrative Enforcement and Remedies

66796.64. (a) Within 30 days of issuance of a written decision by a hearing panel at which review was made of any action or failure to act by an enforcement agency under Article 2 (commencing with Section 66796.30) of this chapter, any aggrieved person may appeal to the board to review the written decision of the hearing panel. The board may on its own motion review at any time a written decision of the hearing panel.

(b) Within 30 days after an appeal has been filed with the State Solid Waste Management Board, the board may do any of the following:

(1) Determine not to hear the appeal if the appellant fails to raise substantial issues.

(2) Determine not to hear the appeal if the appellant failed to participate in the administrative hearing before the hearing panel, if a hearing was held, except that the board shall hear the appeal if the appellant shows good and excusable cause for his or her failure to appear.

(3) Determine to accept the appeal and to decide the matter without a hearing on the basis of the record before the hearing panel and on written arguments submitted by the parties.

(4) Determine to accept the appeal and hold a hearing, within 60 days, unless all parties stipulate to extending the hearing date.

(c) If the board declines to hear the appeal, it shall notify all parties, and the decision of the hearing panel shall become effective within 30 days from the date of the board's notification to the parties, unless judicial review is sought.

(d) If the board accepts the appeal, the evidence before the board shall consist of the record before the enforcement agency and the hearing panel, and any other relevant evidence which in the judgment of the board should be considered to effectuate and implement the policies of this title.

66796.65. In reviewing any decision of a hearing panel, the board's review shall be limited to those issues that relate to the enforcement of the state minimum standards for solid waste handling and disposal. The board may find the decision of the hearing panel inconsistent with the purposes of this chapter and the standards adopted by the board. Upon a finding that the decision of the hearing panel was inconsistent, the board may do any of the following:

(1) Direct that the appropriate action be taken by the enforcement agency.

(2) Refer the matter to any other state agency having jurisdiction.

(3) Take the appropriate action itself.

(4) Any combination of the foregoing.

In taking any such action, the board is vested, in addition to its other powers, with all the powers of the enforcement agency under this title.

66796.66. If an operation of a transfer/processing station or disposal site, or both, is carried on within the jurisdiction of more than one enforcement agency and there is disagreement between the enforcement agencies involved as to the conditions in the solid waste facilities permit which should be established or the enforcement thereof, either enforcement agency may submit the disagreement to the board for resolution.

66796.67. Upon the request of the enforcement agency, the board may enforce any of the provisions of this title. In taking any such action, the board is vested in addition to its other powers with all the powers of the enforcement agency under this title.

66796.68. The board, in taking any enforcement action authorized by this article relating to a health standard, shall coordinate such enforcement with the State Department of Health.

66796.691. Any attorney authorized to act on behalf of the enforcement agency, at the agency's request, shall petition the superior court for injunctive relief to enforce any provisions of Sections 66796.30, 66796.50, or 66796.52 of this chapter, any term or condition in any solid waste facilities permit, or any standard adopted by the board for the storage of solid waste or for the operation of collection and transportation equipment.

66796.692. Should the enforcement agency fail to enforce such provision, term, condition, or standard, the Attorney General shall, at the request of the board, petition the superior court for injunctive relief to enforce it.

66796.693. The board shall, by regulation, require the appropriate administrative procedures including notice to the permittee to be followed by the enforcement agency prior to taking action against any person under Sections 66796.51 and 66796.692.

66796.694. Failure to appeal to the board for review as provided in subdivision (a) of Section 66796.64 shall not preclude a person from filing an action in the superior court to contest the action of an enforcement agency brought under this article.

Article 7. Judicial Review

66796.70. Within 30 days after service of a copy of a decision and order issued by the board under Article 6 (commencing with Section 66796.64) of this chapter, any aggrieved party may file with the superior court a petition for a writ of mandate for review thereof.

66796.71. The evidence before the court shall consist of the records before the board, including the enforcement agency's records, and any other relevant evidence which, in the judgment of the court, should be considered to effectuate and implement the policies of this title.

66796.72. Except as otherwise provided in this article, the provisions of subdivisions (e) and (f) of Section 1094.5 of the Code of Civil Procedure shall govern proceedings pursuant to this article.

Article 8. Other Provisions

66796.80. If any provisions of this title or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this title which can be given effect without the invalid provision or application thereof, and to this end the provisions of this title are severable.

66796.81. Any person who owns real property which is being used as a solid waste disposal site for which a solid waste facilities permit has been issued to the operator of such disposal site, shall cause information to be compiled in a manner and content as determined by the board in regulations, and shall file such information with the county where such disposal site is situated. Such information shall be on a form approved by the board and shall include a map of the real property describing the disposal site.

66796.82. In any civil action brought pursuant to this title in which injunctive relief is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the injunctive relief not be issued, or that the remedy at law is inadequate, and any form of injunctive relief shall issue without such allegations and without such proof.

SEC. 12. 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 duties, obligations, and responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

02439 299305 443

CHAPTER 1310

An act to add Section 18950.1 to the Government Code, relating to state civil service.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 18950.1 is added to the Government Code, to read:

18950.1. Notwithstanding any other provision of the law, employees of the Legislative Analyst and the Office of the Auditor General who are exempt from state civil service pursuant to the provisions of Section 4 of Article XXIV of the California Constitution, shall be eligible to receive three career credits under conditions prescribed by the State Personnel Board.

Such credits shall be granted only for open nonpromotional examinations. In order to be eligible to receive credits, such employees must meet all qualification requirements specified by the board and must have five consecutive years service in an exempt position.

CHAPTER 1311

An act to amend Section 31470.6 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 31470.6 of the Government Code is amended to read:

31470.6. A permanent employee of a county having a population in excess of 500,000 whose principal duties consist of active protection, rescue, and rendition of aid or assistance to persons injured or imperiled in water areas at beaches and lakes, streams, dams, reservoirs, or other bodies of open water (not including swimming pools) or in small craft or airplanes at sea near the shoreline and the recovery from such water areas of submerged objects and bodies of persons drowned or believed to have drowned in such areas, or the immediate supervision thereof, including persons employed to perform the duties now performed under the titles of director of beaches, assistant director of beaches, deputy director of beaches, chief lifeguard, assistant chief lifeguard, captain lifeguards, lieutenant rescue boat, lieutenant lifeguards, beach

lifeguard, but who performs additional duties, some of which (including the maintenance of peace and order and the apprehension of law violators) are customarily performed by police or peace officers, and whose other duties (such as resuscitation work involving the use of special equipment in cases having no connection with their principal duties) which in other areas are customarily performed by firemen, and other and further duties (such as the rescue of persons from disabled aircraft and small boats in inshore or inland waters and the removal of dangerous obstructions from such waters) which do not come directly within any of the aforesaid classifications but are essential to the safety and security of the public, excluding those whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly do not fall within the scope of active lifeguarding or lifesaving service, even though such a person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active lifeguarding or lifesaving service, shall be considered and is hereby classified as an employee whose principal duties consist in "active law enforcement."

Persons employed to perform the duties of director of beaches, assistant director of beaches, or deputy director of beaches shall not be within the classification of "active law enforcement" employee, unless such persons have previously been included within such classification, or have performed duties which would have qualified such person as an "active law enforcement" employee under this section.

SEC. 2. There are no state-mandated local costs in this act which require reimbursement under Section 2231 of the Revenue and Taxation Code because this act makes only technical changes to existing law.

CHAPTER 1312

An act to amend Sections 21050, 21061, 21080, 21082, 21083, 21084, 21085, 21087, 21089, 21100, 21168, and 21168.5 of, and to add Sections 21002, 21002.1, 21003, 21060.3, 21061.1, 21064, 21068, 21069, 21081, 21082.1, 21092, 21100.1, 21151.5, and 21167.1 to, the Public Resources Code, relating to environmental quality.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 21002 is added to the Public Resources Code, to read:

21002. The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as

proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects. The Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one of more significant effects thereof.

SEC. 1.5. Section 21002.1 is added to the Public Resources Code, to read:

21002.1. In order to achieve the objectives set forth in Section 21002 the Legislature finds and delares that the following policy shall apply to the use of environmental impact reports prepared pursuant to the provisions of this division:

(a) The purpose of an environmental impact report is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which such significant effects can be mitigated or avoided.

(b) Each public agency shall mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it is feasible to do so.

(c) In the event that economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, such project may nonetheless be approved or carried out at the discretion of a public agency, provided that the project is otherwise permissible under applicable laws and regulations.

(d) In applying the policies of subdivisions (b) and (c) to individual projects, the responsibility of a local agency which is functioning as a lead agency shall differ from that of a local agency which is functioning as a responsible agency. A local agency functioning as a lead agency shall have responsibility for considering the effects, both individual and collective, of all activities involved in a project. A local agency functioning as a responsible agency shall have responsibility for considering only the effects of those activities involved in a project, which it is required by law to carry out or approve.

SEC. 2. Section 21003 is added to the Public Resources Code, to read:

21003. The Legislature further finds and declares that it is the policy of the state that:

(a) Local agencies integrate the requirements of this division with planning and environmental review procedures otherwise required by law or by local practice so that all such procedures, to the maximum feasible extent, run concurrently, rather than consecutively.

(b) Documents prepared pursuant to this division be organized and written in such a manner that they will be meaningful and useful to decisionmakers and to the public.

(c) Environmental impact reports omit unnecessary descriptions of projects and emphasize feasible mitigation measures and alternatives to projects.

(d) Information developed in individual environmental impact reports be incorporated into a data base which can be used to reduce delay and duplication in preparation of subsequent environmental impact reports.

(e) Information developed in environmental impact reports covering larger geographical areas be used to contribute to information required in specific environmental impact reports.

SEC. 3. Section 21050 of the Public Resources Code is amended to read:

21050. This division shall be known and may be cited as the California Environmental Quality Act.

SEC. 4. Section 21060.3 is added to the Public Resources Code, to read:

21060.3. "Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.

SEC. 5. Section 21061 of the Public Resources Code is amended to read:

21061. "Environmental impact report" means a detailed statement setting forth the matters specified in Sections 21100 and 21100.1; provided that information or data which is relevant to such a statement and is a matter of public record or is generally available to the public need not be repeated in its entirety in such statement, but may be specifically cited as the source for conclusions stated therein; and provided further that such information or data shall be briefly described, that its relationship to the environmental impact report shall be indicated, and that the source thereof shall be reasonably available for inspection at a public place or public building. An environmental impact report also includes any comments which are obtained pursuant to Section 21104 or 21153, or which are required to be obtained pursuant to this division.

An environmental impact report is an informational document which, when its preparation is required by this division, shall be considered by every public agency prior to its approval or disapproval of a project. The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.

In order to facilitate the use of environmental impact reports, public agencies shall require that such reports contain an index or table of contents and a summary. Failure to include such index, table of contents, or summary shall not constitute a cause of action pursuant to Section 21167.

SEC. 5.1. Section 21061.1 is added to the Public Resources Code, to read:

21061.1. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

SEC. 6. Section 21064 is added to the Public Resources Code, to read:

21064. "Negative declaration" means a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental impact report.

SEC. 7. Section 21068 is added to the Public Resources Code, to read:

21068. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in the environment.

SEC. 7.1. Section 21069 is added to the Public Resources Code, to read:

21069. "Responsible agency" means a public agency, other than the lead agency, which has responsibility for carrying out or approving a project.

SEC. 8. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where such a project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(c) In the event that a public agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, such public agency shall adopt a negative declaration to that effect.

SEC. 9. Section 21081 is added to the Public Resources Code, to read:

21081. Pursuant to the policy stated in Sections 21002 and 21002.1, no public agency shall approve or carry out a project for which an environmental impact report has been completed which identifies one or more significant effects thereof unless such public agency makes one, or more, of the following findings:

(a) Changes or alterations have been required in, or incorporated into, such project which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

(b) Such changes or alterations are within the responsibility and jurisdiction of another public agency and such changes have been adopted by such other agency, or can and should be adopted by such other agency.

(c) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

SEC. 9.5. Section 21082 of the Public Resources Code is amended to read:

21082. All public agencies shall adopt by ordinance, resolution, rule, or regulation, objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations pursuant to this division. A school district, or any other district, whose boundaries are coterminous with a city, county, or city and county, may utilize the objectives, criteria, and procedures of the city, county, or city and county, as may be applicable, in which case, the school district or other district need not adopt objectives, criteria, and procedures of its own. The objectives, criteria, and procedures shall be consistent with the provisions of this division and with the guidelines adopted by the Secretary of the Resources Agency pursuant to Section 21083. Such objectives, criteria, and procedures shall be adopted by each public agency no later than 60 days after the Secretary of the Resources Agency has adopted guidelines pursuant to Section 21083.

SEC. 9.6. Section 21082.1 is added to the Public Resources Code, to read:

21082.1. Any environmental impact report or negative declaration prepared pursuant to the requirement of this division shall be prepared directly by, or under contract to, a public agency.

This section is not intended to prohibit, and shall not be construed as prohibiting, any person from submitting information to the public agency responsible for preparing an environmental impact report or negative declaration. Such information may be submitted in any format and may be included in whole or in part in any such report or declaration.

SEC. 10. Section 21083 of the Public Resources Code is amended to read:

21083. The Office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division by public agencies. Such guidelines shall include objectives and criteria for the orderly evaluation of projects and the preparation of environmental impact reports and negative declarations in a manner consistent with this division.

Such guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment". Such criteria shall require a finding that a project may have a "significant effect on the environment" if any of the following conditions exist:

(a) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.

(b) The possible effects of a project are individually limited but cumulatively considerable. As used in this subdivision, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(c) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

Such guidelines shall also include procedures for determining the lead agency pursuant to the provisions of Section 21165.

Such guidelines shall also include criteria for public agencies to use in determining when a proposed project is of sufficient statewide, regional, or areawide environmental significance that it should be submitted to appropriate state agencies for review and comment prior to completion of an environmental impact report or negative declaration thereon.

The Office of Planning and Research shall develop and prepare such proposed guidelines as soon as possible and shall transmit them immediately to the Secretary of the Resources Agency. No later than 60 days after the effective date of this section the Secretary of the Resources Agency shall certify and adopt such guidelines pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code, which shall become effective upon the filing thereof, provided that such guidelines shall not be adopted without compliance with Sections 11423, 11424, and 11425 of the Government Code.

SEC. 10.5. Section 21084 of the Public Resources Code is amended to read:

21084. (a) The guidelines prepared and adopted pursuant to Section 21083 shall include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall be exempt from the provisions of this division. In

02679 284135 36

adopting the guidelines, the Secretary of the Resources Agency shall make a finding that the list or classification of projects referred to in this section do not have a significant effect on the environment.

(b) No project of the Department of Transportation which will result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within an official state scenic highway, as designated pursuant to Section 262 of the Streets and Highways Code, shall be exempted from this division pursuant to subdivision (a).

SEC. 11. Section 21085 of the Public Resources Code is amended to read:

21085. All classes of projects designated pursuant to Section 21084 shall be exempt from the provisions of this division.

SEC. 12. Section 21087 of the Public Resources Code is amended to read:

21087. The Office of Planning and Research shall periodically review the guidelines adopted pursuant to Section 21083 and shall recommend proposed changes or amendments to the Secretary of the Resources Agency. Changes or amendments to the guidelines shall be adopted by the Secretary of the Resources Agency in conformance with Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code.

SEC. 13. Section 21089 of the Public Resources Code is amended to read:

21089. A public agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this division in order to recover the estimated costs incurred by the public agency in preparing a negative declaration or an environmental impact report for such project.

SEC. 15. Section 21092 is added to the Public Resources Code, to read:

21092. Any public agency which is preparing an environmental impact report or a negative declaration shall provide public notice of such fact within a reasonable period of time prior to final adoption by the public agency of such environmental impact report or negative declaration. Notice shall be given to all organizations and individuals who have previously requested such notice and shall also be given by at least one of the following procedures:

(a) Publication, no fewer times than required by Section 6061 of the Government Code, by the public agency in a newspaper of general circulation in the area affected by the proposed project.

(b) Posting of notice by the public agency on- and off-site in the area where the project is to be located.

(c) Direct mailing to owners of contiguous property.

The alternatives for providing notice specified in subdivisions (a) to (c), inclusive, shall not preclude a public agency from providing additional notice by other means if such agency so desires, nor shall the requirements of this section preclude a public agency from providing the public notice required herein at the same time and in

the same manner as public notice otherwise required by law for such project.

SEC. 16. Section 21100 of the Public Resources Code is amended to read:

21100. All state agencies, boards, and commissions shall prepare, or cause to be prepared by contract, and certify the completion of an environmental impact report on any project they propose to carry out or approve which may have a significant effect on the environment. Such a report shall include a detailed statement setting forth the following:

(a) The significant environmental effects of the proposed project.

(b) Any significant environmental effects which cannot be avoided if the project is implemented.

(c) Mitigation measures proposed to minimize the significant environmental effects including, but not limited to, measures to reduce wasteful, inefficient, and unnecessary consumption of energy.

(d) Alternatives to the proposed project.

(e) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(f) Any significant irreversible environmental changes which would be involved in the proposed project should it be implemented.

(g) The growth-inducing impact of the proposed project.

The report shall also contain a statement briefly indicating the reasons for determining that various effects of a project are not significant and consequently have not been discussed in detail in the environmental impact report.

SEC. 17. Section 21100.1 is added to the Public Resources Code, to read:

21100.1. The information described in subdivisions (e) and (f) of Section 21100 shall be required only in environmental impact reports prepared in connection with the following:

(a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency.

(b) The adoption by a local agency formation commission of a resolution making determinations.

(c) A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969.

SEC. 18. Section 21151.5 is added to the Public Resources Code, to read:

21151.5. Local agencies shall establish, by ordinance or resolution, time limits, not to exceed one year, for completing environmental impact reports and negative declarations for projects described in subdivision (c) of Section 21065. Such ordinances or resolutions may establish different time limits for different types or classes of projects, but all such limits shall be measured from the date on which an application requesting approval of such project is received by the

local agency. The ordinances required by this section may provide for a reasonable extension of such time period in the event that unforeseen circumstances justify additional time and that the project applicant consents thereto.

SEC. 19. Section 21167.1 is added to the Public Resources Code, to read:

21167.1. In all actions brought pursuant to Section 21167, including the hearing of any such action on appeal from the decision of a lower court, all courts wherein such actions are or may hereafter be pending, shall give such actions preference over all other civil actions therein, in the matter of setting the same for hearing or trial, and in hearing the same, to the end that all such actions shall be quickly heard and determined.

SEC. 19.1. Section 21168 of the Public Resources Code is amended to read:

21168. Any action or proceeding to attack, review, set aside, void or annul a determination, finding, or decision of a public agency, made as a 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 a public agency, on the grounds of noncompliance with the provisions of this division shall be in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure.

In any such action, the court shall not exercise its independent judgment on the evidence but shall only determine whether the act or decision is supported by substantial evidence in the light of the whole record.

SEC. 19.2. Section 21168.5 of the Public Resources Code is amended to read:

21168.5. In any action or proceeding, other than an action or proceeding under Section 21168, to attack, review, set aside, void or annul a determination, finding, or decision of a public agency on the grounds of noncompliance with this division, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.

SEC. 20. 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. 21. The Legislature declares that it makes no finding whether Sections 21002, 21002.1, and 21082.1, as added to the Public Resources Code by this act, are, or are not, declaratory of existing law.

CHAPTER 1313

An act making an appropriation for the state park system.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. The sum of three hundred fifteen thousand dollars ($315,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation for the acquisition of approximately 11 acres of lands adjacent to Natural Bridges State Beach in the City of Santa Cruz for the state park system.

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. No funds authorized for expenditure pursuant to the provisions of Section 1 shall 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 and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims 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.

CHAPTER 1314

An act making an appropriation for the state park system, and in this connection amending and supplementing the Budget Act of 1976 by adding Section 2.6A thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 2.6A is added to the Budget Act of 1976, to read:

RECREATION AND FISH AND WILDLIFE ENHANCEMENT BOND ACT PROGRAM

Sec. 2.6A. The following sums of money, or so much thereof as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1976–77, 1977–78, and 1978–79 fiscal years. Appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1976–77 fiscal year. All such appropriations shall be paid out of the Recreation and Fish and Wildlife Enhancement Fund.

CAPITAL OUTLAY

Resources

405.5A—For capital outlay, Department of Parks and Recreation, for purposes of the Recreation and Fish and Wildlife Enhancement Bond Act, for expenditure during the 1976–77, 1977–78, and 1978–79 fiscal years, payable from the Recreation and Fish and Wildlife Enhancement Fund $2,000,000

(a) Castaic Lake State Recreation Area, design and construction of camping, equestrian trail, picnic, and marine facilities $2,000,000

provided, that such development shall be accomplished in cooperation with the County of Los Angeles; and provided, further, that the funds which are appropriated by this item for the project set forth herein shall not be available for expenditure unless and until the County of Los Angeles implements a pilot transportation program to transport youth from all areas of the county to the Castaic Lake State Recreation Area during the summer of 1976.

SEC. 2. The Department of Parks and Recreation shall, by November 1, 1976, submit a report to the Legislature on the progress of the pilot transportation program required of the County of Los Angeles.

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:

The area served by Castaic Lake State Recreation Area has been identified as being deficient in recreational facilities in terms of generally recognized open-space, population, and socioeconomic criteria. It is therefore necessary that this act, enabling the early development of greatly needed lands for park purposes, take effect

immediately to permit the early development of this facility which will meet this deficiency.

CHAPTER 1315

An act to add Sections 20046 and 31840.6 to the Government Code, relating to public retirement systems.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 20046 is added to the Government Code, to read:

20046. Whenever in this part the rights of a local member, because of membership in another retirement system, are conditioned upon employment within six months of termination of membership in this system or another retirement system, such period shall be one year rather than six months if the local member was an elective officer and becomes a member of another retirement system upon commencement of service in another elective office on and after January 1, 1977.

This section shall not apply unless the other employer in a reciprocal system elects a similar provision, nor shall it apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required or, in the case of contracts made after January 1, 1977, by express provision in such contract making the contracting agency subject to the provisions of this section.

SEC. 2. Section 31840.6 is added to the Government Code, to read:

31840.6. Whenever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within six months of termination of membership in a system under this chapter or another retirement system, such period shall be one year rather than six months if the member was an elective officer and becomes a member of a system established under this chapter upon commencement of service in another elective office on and after January 1, 1977.

This section shall not be applicable in any county until adopted by the board of supervisors nor until the other employer in a reciprocal system elects a similar provision.

CHAPTER 1316

An act to add Section 14100.5 to the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 28, 1976 Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 14100.5 is added to the Education Code, to read:

14100.5. Any employer, other than the state, on behalf of any group of members or any member, may elect to make tax-sheltered annuity contributions for the purpose of providing additional benefits. An election by an employer to make such contributions does not require any member to make contributions and such contributions shall continue in effect for such period as shall be specified in the election filed with the board and a member shall acquire no right by reason of his employment while such election is in effect to a continuation of such contributions beyond the period specified in the election.

Wherever in this chapter provision is made with respect to accumulated tax-sheltered annuity contributions of a member such term shall include contributions made by an employer pursuant to this section.

Contributions made by an employer under this section are excluded from "compensation" and "salary" as provided in Section 13832.

CHAPTER 1317

An act to amend Section 19701 of the Government Code, relating to discrimination in employment, and making an appropriation therefor.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 19701 of the Government Code is amended to read:

19701. A person shall not be discriminated against under this part because of total or partial blindness unless normal eyesight is absolutely indispensable to do the physical acts to be performed.

It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification as determined by a validation study conducted by the State Personnel Board, for the state to refuse

to hire, employ, promote, or select for a training program leading to employment, or to discriminate in compensation or in terms or privileges of employment because of color vision anomaly or defect, commonly known as color blindness or color weakness, in the vision of any person.

SEC. 2. The sum of seven thousand five hundred dollars ($7,500) is hereby appropriated from the General Fund to the State Personnel Board for the purposes of this act.

CHAPTER 1318

An act to amend Section 31732 of the Government Code, relating to the County Employees' Retirement Law of 1937.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 31732 of the Government Code is amended to read:

31732. The board shall secure such medical, investigatory and other service and advice as is necessary to carry out the purpose of this article. Notwithstanding Section 31529, the board may contract with an attorney in private practice for the legal services and advice necessary to carry out the purpose of this article. It shall pay for such services and advice such compensation as it deems reasonable.

SEC. 2. There are no state-mandated local costs within the meaning of Section 2231 of the Revenue and Taxation Code imposed on local governmental entities by this act.

CHAPTER 1319

An act to add Section 22821 to the Government Code, relating to public employees.

[Approved by Governor September 28, 1976 Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 22821 is added to the Government Code, to read:

22821. All eligible family members of a deceased employee of a contracting agency who are validly enrolled hereunder on the date of the employee's death shall be deemed to be annuitants under subdivision (e) of Section 22754 for the purpose of continuing their enrollment.

A contracting agency shall remit the amounts required under subdivision (2) of Section 22826 and Section 22831 as well as the total amount of premium required from employer and enrollees hereunder in accordance with regulations of the board. Enrollment of such annuitants shall be continuous following the death of the employee so long as the surviving family members meet the eligibility requirements of subdivision (f) of Section 22754 and regulations pertinent thereto. Failure to timely pay the required premiums and costs shall terminate coverage without recourse to reenrollment, and the cancellation of coverage by such an annuitant will be final without option to reenroll. The contracting agency may elect to require the family members to pay all or any part of the employer premium for such enrollment.

This section shall apply to a contracting agency only upon the filing with the board of a resolution of its governing board electing to be subject to this section.

CHAPTER 1320

An act to amend Sections 10145, 10146, and 17766.5 of, and to add Section 6069 to, the Business and Professions Code, to amend Sections 25241, 25606, 29535, and 31111 of, and to add Section 25134 to, the Corporations Code, to amend Sections 12300.3, 15101, 17409, 18612, 18945, 18986, 22406, and 24406 of, and to repeal Section 1917 of, the Financial Code, and to amend Section 12586 of, and to add Chapter 20 (commencing with Section 7460) to Division 7 of Title 1 of, the Government Code, to amend Sections 1352 and 1357 of, and to add Section 1351.1 to, the Health and Safety Code, to add Sections 904 and 1703 to the Insurance Code, and to add Section 11703.4 to the Vehicle Code, relating to financial records.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 6069 is added to the Business and Professions Code, to read:

6069. It is the duty of every member to file annually with the secretary of the State Bar an authorization for disclosure to the State Bar pursuant to Section 7473 of the Government Code of financial records pertaining to trust funds which the member must maintain in accordance with the Rules of Professional Conduct. Each such authorization shall be effective until a succeeding authorization is filed.

SEC. 1.5. Section 10145 of the Business and Professions Code is amended to read:

10145. A real estate licensee who accepts funds from others in connection with any transaction subject to this part who does not immediately place such funds into a neutral escrow depository or into the hands of his principal shall place such funds into a trust fund account maintained by him in some bank or recognized depository and shall retain all such funds in the account until such time as he has made a disbursement of the funds in accordance with instructions from the principal or principals in the transaction; provided that a real estate broker when acting as a principal pursuant to Section 10131.1 or Article 6 (commencing with Section 10237) of this part shall place all purchase funds for real property sales contracts or promissory notes secured directly or collaterally by liens on real property being sold by him in a neutral escrow depository unless delivery of the note or contract is made simultaneously with the receipt of the funds. A separate record shall be maintained of all moneys received subject to this section and shall further indicate the disposition thereof. Upon request of the commissioner, a licensee shall furnish to the commissioner an authorization for examination of financial records of any such trust fund account, maintained in a financial institution, in accordance with the procedures set forth in Section 7473 of the Government Code.

As used in this section "neutral escrow" means an escrow business conducted by a person licensed under Division 6 (commencing with Section 17000) of the Financial Code or by any person described by subdivision (a) of Section 17006 and subdivision (c) of Section 17006 of said code.

SEC. 2. Section 10146 of the Business and Professions Code is amended to read:

10146. Any real estate broker who contracts for or collects an advance fee from any other person, hereinafter referred to as the "principal," shall deposit any such amount or amounts, when collected in a trust account with a bank or other recognized depository. Such funds are trust funds and not the funds of the agent. Amounts may be withdrawn therefrom for the benefit of the agent only when actually expended for the benefit of the principal or five days after the verified accounts mentioned hereinafter have been mailed to the principal. Upon request of the commissioner, a broker shall furnish to the commissioner an authorization for examination of financial records of the trust account in accordance with the procedures set forth in Section 7473 of the Government Code.

The commissioner may issue such rules and regulations as he deems necessary to regulate the method of accounting, and to accomplish the purpose of the provisions of this code relating to advance fees including, but not limited to, establishing forms for and determining information to be included in such accountings. Each principal shall be furnished a verified copy of such accountings at the end of each calendar quarter and when the contract has been completely performed by the licensee. The Real Estate

Commissioner shall be furnished a verified copy of any account or all accounts on his demand therefor.

Where advance fees actually paid by or on behalf of any principal are not handled in accordance with the preceding paragraph, it shall be presumed that the agent has violated Sections 506 and 506a of the Penal Code. The principal may recover treble damages for amounts so misapplied and shall be entitled to reasonable attorneys' fees in any action brought to recover the same.

SEC. 2.2. Section 17766.5 of the Business and Professions Code is amended to read:

17766.5. For the purpose of discovering violations of this chapter and for securing information as may be reasonably required by him, the commissioner may at any time investigate the affairs and examine the books, accounts, records and files of any trading stamp company.

Upon request of the commissioner, trading stamp companies shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

SEC. 2.3. Section 25134 is added to the Corporations Code, to read:

25134. Every applicant seeking qualification for the sale of securities shall, upon request of the commissioner, furnish to the commissioner an authorization for examination of the applicant's financial records of the sale of such securities pursuant to Section 7473 of the Government Code.

SEC. 2.4. Section 25241 of the Corporations Code is amended to read:

25241. Every broker-dealer and every investment adviser shall make and keep such accounts, correspondence, memoranda, papers, books, and other records and shall file such financial and other resports as the commissioner by rule requires. All records so required shall be preserved for the time specified in the rule. All records referred to in this section are subject at any time and from time to time to such reasonable periodic, special, or other examinations by the commissioner, within or without this state, as the commissioner deems necessary or appropriate in the public interest or for the protection of investors. For the purpose of avoiding unnecessary duplications of examinations, the commissioner, insofar as he deems it practicable in administering this section, may cooperate with the securities administrators of other states, the Securities and Exchange Commission and any national securities exchange or national securities association.

Upon request of the commissioner, every broker-dealer or investment adviser shall furnish an authorization for disclosure to the commissioner of financial records of the licensee's broker-dealer or investment adviser business pursuant to Section 7473 of the Government Code.

SEC. 3. Section 25606 of the Corporations Code is amended to read:

25606. The Attorney General shall render to the commissioner opinions upon all questions of law, relating to the construction or interpretation of any law under his jurisdiction or arising in the administration thereof, that may be submitted to him by the commissioner, and shall act as the attorney for the commissioner in all actions and proceedings brought by or against him under or pursuant to any provision of any law under his jurisdiction. The commissioner may act as his own attorney in an action or proceeding brought pursuant to Section 7474 of the Government Code.

SEC. 3.2. Section 29535 of the Corporations Code is amended to read:

29535. Every commodity adviser, commodity exchange, commodity option issuer, commodity broker and member of a commodity exchange shall make and keep such accounts, correspondence, memoranda, papers, books, and other records and shall file or publish such financial and other reports as the commissioner by rule requires. All records so required shall be preserved for the time specified in the rule. All records referred to in this section are subject at any time and from time to time to such reasonable periodic, special, or other examinations by the commissioner, within or without this state, as the commissioner deems necessary or appropriate in the public interest or for the protection of investors. For the purpose of avoiding unnecessary duplications of examinations and reports, the commissioner, insofar as he deems it practicable in administering this section, may cooperate with any federal or state agency regulating or concerned with commodity trading, or any commodity exchange.

Upon request of the commissioner, every commodity adviser, commodity exchange, commodity option issuer, commodity broker and member of a commodity exchange shall furnish an authorization for disclosure to the commissioner of financial records of the licensee's business as a commodity adviser, commodity exchange, commodity option issuer, commodity broker or member of a commodity exchange, pursuant to Section 7473 of the Government Code.

SEC. 3.4. Section 31111 of the Corporations Code is amended to read:

31111. The application for registration of an offer shall be filed with the commissioner and shall contain the following:

(a) The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any parent or affiliated company that will engage in business transactions with franchisees.

(b) The franchisor's principal business address and the name and address of its agent in the State of California authorized to receive process.

(c) The business form of the franchisor, whether corporate, partnership, or otherwise.

(d) Such information concerning the identity and business experience of persons affiliated with the franchisor, as the commissioner may by rule prescribe.

(e) A statement whether any person identified in the application for registration:

(1) Has been convicted of a felony, or pleaded nolo contendere to a felony charge, or held liable in a civil action by final judgment if such felony or civil action involved fraud, embezzlement, fraudulent conversion or misappropriation of property; or

(2) Is subject to any currently effective order of the Securities and Exchange Commission or the securities administrator of any state denying registration to or revoking or suspending the registration of such person as a securities broker or dealer or investment advisor or is subject to any currently effective order of any national securities association or national securities exchange (as defined in the Securities and Exchange Act of 1934) suspending or expelling such person from membership in such association or exchange; or

(3) Is subject to any currently effective order or ruling of the Federal Trade Commission; or

(4) Is subject to any currently effective injunctive or restrictive order relating to business activity as a result of an action brought by any public agency or department, including, without limitation, actions affecting a license as a real estate broker or salesman.

Such statement shall set forth the court, date of conviction or judgment, any penalty imposed or damages assessed, or the date, nature and issuer of such order.

(f) The length of time the franchisor: (1) has conducted a business of the type to be operated by the franchisees, (2) has granted franchises for such business, and (3) has granted franchises in other lines of business.

(g) A recent financial statement of the franchisor, together with a statement of any material changes in the financial condition of the franchisor from the date thereof. The commissioner may by rule or order prescribe (1) the form and content of financial statements required under this law, (2) the circumstances under which consolidated financial statements shall be filed, and (3) the circumstances under which financial statements shall be audited by independent certified public accountants or public accountants.

(h) A copy of the typical franchise contract or agreement proposed for use or in use in this state.

(i) A statement of the franchise fee charged, the proposed application of the proceeds of such fee by the franchisor and the formula by which the amount of the fee is determined if the fee is not the same in all cases.

(j) A statement describing any payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party or parties.

(k) A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor.

(*l*) A statement as to whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase from the franchisor or his designee services, supplies, products, fixtures or other goods relating to the establishment or operation of the franchise business, together with a description thereof.

(m) A statement as to whether, by the terms of the franchise agreement or other device or practice, the franchisee is limited in the goods or services offered by him to his customers.

(n) A statement of the terms and conditions of any financing arrangements when offered directly or indirectly by the franchisor or his agent or affiliate.

(o) A statement of any past or present practice or of any intent of the franchisor to sell, assign or discount to a third party any note, contract or other obligation of the franchisee or subfranchisor in whole or in part.

(p) A copy of any statement of estimated or projected franchisee earnings prepared for presentation to prospective franchisees or subfranchisors, or other persons, together with a statement setting forth the data upon which such estimation or projection is based.

(q) A statement of any compensation or other benefit given or promised to a public figure arising, in whole or in part, from (1) the use of the public figure in the name or symbol of the franchise or (2) the endorsement or recommendation of the franchise by the public figure in advertisements.

(r) A statement of the number of franchises presently operating and proposed to be sold, as may be required by rule of the commissioner.

(s) A statement as to whether franchisees or subfranchisors receive an exclusive area or territory.

(t) Other information related to the application as the commissioner may reasonably require.

(u) Other information as the franchisor may desire to present.

(v) When the person filing the application for registration is a subfranchisor, the application shall also include the same information concerning the subfranchisor as is required from the franchisor pursuant to this section.

(w) An authorization for the commissioner to examine the registrant's financial records of the sale of such franchise pursuant to Section 7473 of the Government Code.

SEC. 4. Section 1917 of the Financial Code is repealed.

SEC. 4.1. Section 12300.3 of the Financial Code is amended to read:

12300.3. All funds received by a licensee or its agents from the sale of checks, drafts, money orders, or other commercial paper serving the same purpose and for the purpose of paying bills,

invoices, or accounts of an obligor, equal in amount to the face value of such instruments or equal to the amount to be paid, shall constitute trust funds owned by and belonging to the person from whom they were received or a licensee who has paid the checks, drafts, money orders or other commercial paper serving the same purpose, for which the funds of such persons have been received by the agent but not transmitted to such licensee or deposited in the trust account of such licensee. If a licensee or an agent of a licensee shall commingle such funds with those of his own, all assets of such agent shall be impressed with a trust in favor of said purchaser or the licensee in an amount equal to the aggregate funds received or which should have been received by the agent from such sale. Such trust shall continue until an amount equal to said funds is separated from those of the agent and transmitted to the licensee or deposited in the trust account of licensee. An amount equal to all such trust funds shall be deposited in a bank or banks in an account or accounts in the name of the licensee designated "trust account," or by some other appropriate name indicating that the funds are not the funds of the licensee or of its officers, employees, or agents. Such funds, or, in the event of the commingling of such funds by licensee or its agent with those of the licensee or its agent, an amount of funds of such licensee or of its agent equal thereto, shall constitute trust funds as herein provided and shall not be subject to attachment, levy of execution or sequestration by order of court except by a payee, or bona fide assignee, or bona fide holder in due course of a check, draft, or money order sold by a licensee, or except by an obligor for whom a licensee is acting as an agent in paying bills. Funds in said account, together with funds and checks on hand and in the hands of agents held for the account of the licensee, at all times shall be at least equal to the aggregate liability of the licensee on account of checks sold and bills, invoices, and accounts accepted for payment.

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

Nothing in this law shall be construed to prevent a purchaser, a holder in due course, the payee of a check, draft or money order sold by the licensee in the usual course of his business, or an obligor for whom the licensee is acting as an agent in paying bills of the obligor, from taking any legal action necessary to enforce any claims which said purchaser, holder in due course, payee, or obligor may desire to take including the right to levy attachment or execution.

In the event a license under this law shall be suspended or terminated the licensee shall immediately deposit in said trust account an amount which with funds therein contained shall be equal to the outstanding checks sold and bills unpaid.

SEC. 4.2. Section 15101 of the Financial Code is amended to read:

15101. The capital funds, undivided profits, and guaranty fund of any credit union may be deposited in any of the following:

(a) Commercial banks or trust companies, incorporated under the laws of this state.

(b) National banks located in this state.

(c) Securities authorized in Sections 1352 to 1366, inclusive, and in Section 1372.

(d) Shares or certificates for funds received or any form of evidence of interest or indebtedness issued by any credit union in this state, organized under the provisions of this division or the statutes of the United States relating to credit unions.

(e) Accounts with, investment certificates or withdrawable shares of, any savings and loan association doing business in this state and which is an insured institution as defined by Title IV of the National Housing Act; provided that the total sum invested by any credit union in any one savings and loan association pursuant to this section shall not exceed the greater of one-fourth of 1 percent of such savings and loan association's total withdrawable accounts or the maximum amount of insurance on a single savings and loan account then provided by the Federal Savings and Loan Insurance Corporation of the United States under the provisions of subdivision (b) of Section 401 (subdivision (b) of 12 U.S.C. 1724) and subdivision (a) of Section 405 (subdivision (a) of 12 U.S.C. 1728) of Title IV of the National Housing Act.

(f) With the written approval of the commissioner, credit unions may invest in trusts organized solely for the purpose of investing in United States government securities and United States government agency securities; provided such trust is formed by an organization composed of credit unions described in subdivision (a) of Section 14805.5 or an organization of credit union associations.

(g) Upon request of the commissioner, a licensee shall furnish to the commissioner an authorization for examination of financial records of any capital funds, undivided profits, and guaranty funds, maintained in a financial institution, in accordance with the procedures set forth in Section 7473 of the Government Code.

SEC. 4.3. Section 17409 of the Financial Code is amended to read:

17409. All money deposited in escrow to be delivered upon the close of the escrow or upon any other contingency, shall be deposited in a bank and kept separate, distinct, and apart from funds belonging to the escrow agent. Such funds, when deposited, are to be designated as "trust funds," "escrow accounts," or under some other appropriate name indicating that the funds are not the funds of the escrow agent.

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

SEC. 4.4. Section 18612 of the Financial Code is amended to read:

18612. No industrial loan company shall deposit any of its funds with any other moneyed corporation, unless such corporation has been designated as a depositary by a majority vote of the directors or the executive committee, exclusive of any director who is an officer, director, or trustee of the depositary so designated.

Upon request of the commissioner, an industrial loan company shall furnish an authorization for disclosure to the commissioner of financial records of such deposits pursuant to Section 7473 of the Government Code.

SEC. 4.5. Section 18945 of the Financial Code is amended to read:

18945. Any downpayment which is made and which is received by the company from the insured, or from the insurance producer on behalf of the insured, shall be held by the company in trust for and in transit to the insurer, and shall be paid to the insurer, together with the balance of the premium payable pursuant to the terms of the premium finance agreement within 30 days from the effective date of the policy, or within 30 days after the receipt of a proper premium finance agreement by the company, or within 15 days after the company has mailed to the insured notice of a revised finance agreement pursuant to Section 18921, whichever is later. In the event that the premium is paid to the insurance agent or broker of record, such agent or broker of record shall not be deemed the agent of the company by reason of such payment.

Upon request of the commissioner, the company shall furnish an authorization for disclosure to the commissioner of financial records of such trust accounts pursuant to Section 7473 of the Government Code.

SEC. 4.6. Section 18986 of the Financial Code of the Financial Code is amended to read:

18986. Guaranty Corporation may invest its funds only as provided by rules of the commissioner adopted with a view to preserving reasonable liquidity.

Upon request of the commissioner, Guaranty Corporation shall furnish an authorization for disclosure to the commissioner of financial records of such funds pursuant to Section 7473 of the Government Code.

SEC. 4.7. Section 22406 of the Financial Code is amended to read:

22406. Licensees shall keep and use in their business, books, accounts, and records which will enable the commissioner to determine if the licensee is complying with the provisions of this division and with the rules and regulations made by the commissioner. On any loan secured in part by real property in which loan proceeds were disbursed to an independent escrow holder, licensees shall retain records and documents as set forth by rule of the commissioner adopted pursuant to Section 22400.

Upon request of the commissioner, licensees shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

SEC. 4.8. Section 24406 of the Financial Code is amended to read:

24406. Licensees shall keep and use in their business books, accounts, and records which will enable the commissioner to determine if the licensee is complying with the provisions of this division and with the rules and regulations made by the commissioner.

Upon request of the commissioner, licensees shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

SEC. 5. Chapter 20 (commencing with Section 7460) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 20. GOVERNMENTAL ACCESS TO FINANCIAL RECORDS

Article 1. Declaration of Policy

7460. This chapter shall be known as the "California Right to Financial Privacy Act."

7461. The Legislature finds and declares as follows:

(a) Procedures and policies governing the relationship between financial institutions and government agencies have in some cases developed without due regard to citizens' constitutional rights.

(b) The confidential relationships between financial institutions and their customers are built on trust and must be preserved and protected.

(c) The purpose of this chapter is to clarify and protect the confidential relationship between financial institutions and their customers and to balance a citizen's right of privacy with the governmental interest in obtaining information for specific purposes and by specified procedures as set forth in this chapter.

Article 2. Definitions

7465. For the purposes of this chapter:

(a) The term "financial institution" includes state and national banks, state and federal savings and loan associations, trust companies, industrial loan companies, and state and federal credit unions.

(b) The term "financial records" means any original or any copy of any record or document held by a financial institution pertaining to a customer of the financial institution.

(c) The term "person" means an individual, partnership, corporation, association, trust, or any other legal entity.

(d) The term "customer" means any person who has transacted business with or has used the services of a financial institution or for whom a financial institution has acted as a fiduciary.

(e) The term "state agency" means every state office, officer, department, division, bureau, board, and commission or other state agency, including the Legislature.

(f) The term "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.

(g) The term "supervisory agency" means any of the following:

(1) The State Banking Department.

(2) The Department of Savings and Loans.

(3) The Department of Corporations.

(4) The State Controller.

(5) The Administrator of Local Agency Security.

(h) The term "investigation" includes, but is not limited to, any inquiry by a peace officer, sheriff, or district attorney, or any inquiry made for the purpose of determining whether there has been a violation of any law enforceable by imprisonment, fine, or monetary liability.

(i) The term "subpoena" includes subpoena duces tecum.

Article 3. Confidentiality of, and Access to, Financial Records

7470. (a) Except as provided in Section 7480, no officer, employee, or agent of a state or local agency or department thereof, in connection with a civil or criminal investigation of a customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings, may request or receive copies of, or the information contained in, the financial records of any customer from a financial institution unless the financial records are described with particularity and are consistent with the scope and requirements of the investigation giving rise to such request and:

(1) Such customer has authorized disclosure to such officer, employee or agent of such state or local agency or department thereof in accordance with Section 7473; or

(2) Such financial records are disclosed in response to an administrative subpoena or summons which meets the requirements of Section 7474; or

(3) Such financial records are disclosed in response to a search warrant which meets the requirements of Section 7475; or

(4) Such financial records are disclosed in response to a judicial subpoena or subpoena duces tecum which meets the requirements of Section 7476.

(b) Nothing in this section or in Sections 7473, 7474, 7475, and 7476 shall require a financial institution to inquire or determine that those seeking disclosure have duly complied with the requirements set

forth therein, provided only that the customer authorization, administrative subpoena or summons, search warrant, or judicial subpoena or order served on or delivered to a financial institution pursuant to such sections shows compliance on its face.

(c) The financial institution shall maintain for a period of five years a record of all examinations or disclosures of the financial records of a customer pursuant to this chapter, including the identity of the person examining the financial records, the state or local agency or department thereof which he represents, and a copy of the customer authorization, subpoena, summons or search warrant providing for such examination or disclosure or a copy of the certification received pursuant to subdivision (b) of Section 7480. Any record maintained pursuant to this subdivision shall be available, within five days of request, during normal business hours for review by the customer at the office or branch where the customer's account was located when examined or disclosed. A copy of such record shall be furnished to the customer upon request and payment of the reasonable cost thereof.

7471. (a) Except in accordance with requirements of Section 7473, 7474, 7475, or 7476, no financial institution, or any director, officer, employee, or agent of a financial institution, may provide or authorize another to provide to an officer, employee, or agent of a state or local agency or department thereof, any financial records, copies thereof, or the information contained therein, if the director, officer, employee or agent of the financial institution knows or has reasonable cause to believe that such financial records or information are being requested in connection with a civil or criminal investigation of the customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings.

(b) This section is not intended to prohibit disclosure of the financial records of a customer or the information contained therein incidental to a transaction in the normal course of business of such financial institution if the director, officer, employee or agent thereof making or authorizing the disclosure has no reasonable cause to believe that the financial records or the information contained in the financial records so disclosed will be used by a state or local agency or department thereof in connection with an investigation of the customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings.

(c) This section shall not preclude a financial institution, in its discretion, from initiating contact with, and thereafter communicating with and disclosing customer financial records to, appropriate state or local agencies concerning suspected violation of any law.

(d) A financial institution which refuses to disclose the financial records of a customer, copies thereof or the information contained therein, in reliance in good faith upon the prohibitions of subdivision (a) shall not be liable to its customer, to a state or local agency, or

to any other person for any loss or damage caused in whole or in part by such refusal.

7473. (a) A customer may authorize disclosure under paragraph (1) of subdivision (a) of Section 7470 if those seeking disclosure furnish to the financial institution a signed and dated statement by which the customer:

(1) Authorizes such disclosure for a period to be set forth in the authorization statement;

(2) Specifies the name of the agency or department to which disclosure is authorized and, if applicable, the statutory purpose for which the information is to be obtained; and

(3) Identifies the financial records which are authorized to be disclosed.

(b) No such authorization shall be required by a financial institution as a condition of doing business with such financial institution.

(c) Any officer, employee or agent of a state or local agency seeking customer authorization for disclosure of customer financial records shall include in the form which the customer signs granting authorization written notification that the customer has the right at any time to revoke such authorization, except where such authorization is required by statute.

(d) An agency or department examining the financial records of a customer pursuant to this section shall notify the customer in writing within 30 days of such examination and inform the customer that he has the right to make a written request as to the reason for such examination. Such notice shall specify the financial records which were examined and, if requested, the reason for such examination.

7474. (a) An officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (2) of subdivision (a) of Section 7470 pursuant to an administrative subpoena or summons otherwise authorized by law and served upon the financial institution only if:

(1) The person issuing such administrative summons or subpoena has served a copy of the subpoena or summons on the customer pursuant to Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, which copy may be served by an employee of the state or local agency or department thereof; and

(2) The subpoena or summons includes the name of the agency or department in whose name the subpoena or summons is issued and the statutory purpose for which the information is to be obtained; and

(3) The customer has not moved to quash such subpoena or summons within 10 days of service.

(b) (1) In issuing an administrative subpoena or summons pursuant to subdivision (a), the Attorney General or the Commissioner of Corporations pursuant to the enforcement of

statutes within his jurisdiction may petition a court, and the court, upon a showing of a reasonable inference that a law subject to the jurisdiction of the petitioning agency has been or is about to be violated, may order that service upon the customer pursuant to paragraph (1) of subdivision (a) and the 10-day period provided for in paragraph (3) of subdivision (a) be waived or shortened. For the purpose of this subdivision, an "inference" is a deduction that may reasonably be drawn by the Attorney General or the Commissioner of Corporations from facts relevant to the investigation.

(2) Such petition may be presented to the court in person or by telephoned oral statement which shall be recorded and transcribed. In the case of telephonic petition, the recording of the sworn oral statement and the transcribed statement shall be certified by the magistrate receiving it and shall be filed with the clerk of the court.

(3) Where the court grants such petition, the court shall order the petitioning agency to notify the customer in writing within a period to be determined by the court but not to exceed 60 days. The notice shall specify the information otherwise required by paragraph (2) of subdivision (a), and shall also specify the financial records which were examined pursuant to the administrative subpoena or summons. Upon renewed petition, the time of notification may be extended for additional 30-day periods upon good cause shown.

(4) The Attorney General shall not provide financial records obtained pursuant to the procedure authorized in this subdivision to a local law enforcement agency unless that agency has independently obtained authorization to receive such financial records pursuant to the provisions of this chapter.

(c) Except as provided in this subdivision, nothing in this chapter shall preclude a financial institution from notifying a customer of the receipt of an administrative summons or subpoena. A court may order a financial institution to withhold notification to a customer of the receipt of an administrative summons or subpoena when the court issues an order pursuant to subdivision (b) and makes a finding that notice to the customer by the financial institution would impede the investigation.

(d) If a customer files a motion to quash an administrative subpoena or summons issued pursuant to subdivision (a), such proceedings shall be afforded priority on the court calendar and the matter shall be heard within 10 days from the filing of the motion to quash.

7475. An officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (3) of subdivision (a) of Section 7470 only if he obtains a search warrant pursuant to Chapter 3 (commencing with Section 1523) of Title 12 of Part 2 of the Penal Code. Examination of financial records may occur as soon as the warrant is served on the financial institution. Nothing in this chapter shall preclude a financial institution from notifying a customer of the receipt of a search warrant, unless a court orders the financial institution to withhold notification to the

customer upon a finding that such notice would impede the investigation.

7476. (a) Except as provided in subdivision (b), an officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (4) of subdivision (a) of Section 7470 pursuant to a judicial subpoena or subpoena duces tecum only if:

(1) The subpoena or subpoena duces tecum is issued and served upon the financial institution and the customer in compliance with Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure; and

(2) Ten days after service pass without the customer giving notice to the financial institution that the customer has moved to quash the subpoena. If testimony is to be taken, or financial records produced, before a court, the 10-day period provided for in this subdivision may be shortened by the court issuing the subpoena or subpoena duces tecum upon a showing of reasonable cause. The court shall direct that all reasonable measures be taken to notify the customer within the time so shortened.

(b) (1) A grand jury, upon resolution adopted by a majority of its members, may obtain financial records pursuant to a judicial subpoena or subpoena duces tecum which, upon a showing of probable cause, is personally signed and issued by a judge of the superior court in accordance with Section 939.2 of the Penal Code.

(2) Upon issuing such subpoena or subpoena duces tecum, the judge shall order the grand jury to notify the customer in writing within 60 days of such issuance; provided, however, that the judge may shorten the 60-day period, or upon a showing of good cause, may extend such period for additional 30-day periods. The notice shall specify the financial records which were examined and the reason for such examination.

Article 4. Exceptions

7480. Nothing in this chapter prohibits any of the following:

(a) The dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks or other orders drawn upon any bank in this state, such police or sheriff's department or district attorney may request a bank to furnish, and a bank shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account:

(i) The number of items dishonored;

(ii) The number of items paid which created overdrafts;

(iii) The dollar volume of such dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank and customer to pay overdrafts;

(iv) The dates and amounts of deposits and debits and the account balance on such dates;

(v) A copy of the signature and any addresses appearing on a customer's signature card; and

(vi) The date the account opened and, if applicable, the date the account closed.

(c) The Attorney General, the Franchise Tax Board, the State Board of Equalization, or a police or sheriff's department or district attorney from requesting of an office or branch of a financial institution, and the office or branch from responding to such a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of such account or accounts.

(d) The examination by, or disclosure to, any supervisory agency of financial records which relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority to examine, audit, or require reports of financial records or financial institutions as follows:

(1) With respect to the Superintendent of Banks by reference to Division 1 (commencing with Section 99) of the Financial Code.

(2) With respect to the Department of Savings and Loans by reference to Division 2 (commencing with Section 5000) of the Financial Code.

(3) With respect to the Corporations Commissioner by reference to Division 5 (commencing with Section 14000) and Division 7 (commencing with Section 18000) of the Financial Code.

(4) With respect to the State Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(5) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The disclosure to the Franchise Tax Board of (1) the amount of any security interest a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return required to be filed by the financial institution pursuant to Part 10, 11, or 18 of the Revenue and Taxation Code.

(f) The disclosure to the State Board of Equalization of:

(1) The information required by Sections 6702, 8954, 30313, 32383, 38502, and 40153 of the Revenue and Taxation Code; or

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Parts 1, 2, 3, 13, 14, and 17 of the Revenue and Taxation Code.

(g) The disclosure to the State Controller of the information required by Section 7853 of the Revenue and Taxation Code.

Article 5. Penalties and Remedies

7485. (a) Any person who, with the intent to violate, knowingly participates in a violation of this chapter is guilty of a misdemeanor, and upon conviction shall be imprisoned for not more than one year, or fined not more than five thousand dollars ($5,000), or both.

(b) Any person who, with the intent to violate, knowingly induces or attempts to induce a violation of this chapter is guilty of a misdemeanor and upon conviction shall be imprisoned for not more than one year, or fined not more than five thousand dollars ($5,000), or both.

(c) If a customer files a motion to quash and the court finds no reasonable grounds existed for such a filing, the court in its discretion may impose such civil sanctions as are otherwise authorized by law.

7486. In any successful action to enforce liability for a violation of the provisions of this chapter, the customer may recover the cost of the action together with reasonable attorney's fees as determined by the court.

7487. In addition to any other remedy contained in this chapter or otherwise available, injunctive relief shall be available to any customer aggrieved by a violation, or threatened violation, of this chapter. In any successful action by the customer, costs together with reasonable attorney's fees as determined by the court may be recovered.

7488. An action to enforce any provision of this chapter must be commenced within three years after the date on which the violation occurred.

7489. Evidence obtained in violation of this chapter is inadmissible in any proceeding except a proceeding to enforce the provisions of this article.

Article 6. Miscellaneous

7490. Except as provided in Sections 6069, 10145, 10146, and 17766.5 of the Business and Professions Code, Sections 25134, 25241, 29535, and 31111 of the Corporations Code, Sections 12300.3, 15101, 17409, 18612, 18945, 18986, 22406 and 24406 of the Financial Code, Section 12586 of the Government Code, Sections 1351.1, 1352 and 1357 of the Health and Safety Code, Sections 904 and 1703 of the Insurance Code, and Section 11703.4 of the Vehicle Code, no waiver by a customer of any right or procedure hereunder shall be valid, whether oral or written, and whether with or without consideration.

7491. Should any other law grant or appear to grant power or authority to any person to violate the provisions of this chapter, the provisions of this chapter shall supersede and pro tanto override and annul such law, except those statutes hereinafter enacted which

specifically refer to this chapter.

7492. If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this chapter which can be effected, without the invalid provision or application, and to this end the provisions of this chapter are severable.

7493. Nothing in this chapter shall be construed to preclude a state or local agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

SEC. 6. Section 12586 of the Government Code is amended to read:

12586. (a) Except as otherwise provided and except corporate trustees which are subject to the jurisdiction of the Superintendent of Banks of the State of California or to the Comptroller of Currency of the United States, every charitable corporation and trustee subject to this article shall, in addition to filing copies of the instruments previously required, file with the Attorney General (i) periodic written reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the corporation or trustee, in accordance with rules and regulations of the Attorney General; and (ii) an authorization for disclosure to the Attorney General of financial records of the charitable corporation or trustee pursuant to Section 7473.

(b) The Attorney General shall make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. He may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for the different classes as to time and nature of the reports required to the ends (1) that he shall receive reasonably current, periodic reports as to all charitable trusts or other relationships of a similar nature, which will enable him to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts and similar relationships. The Attorney General may suspend the filing of reports as to a particular charitable trust or relationship for a reasonable, specifically designated time upon written application of the trustee filed with the Attorney General and after the Attorney General has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by his office.

(c) A copy of an account filed by the trustee in any court having jurisdiction of the trust or other relationship, if the account substantially complies with the rules and regulations of the Attorney General, may be filed as a report required by this section.

(d) The first report for a trust or similar relationship hereafter established, unless the filing thereof is suspended as herein provided, shall be filed not later than four (4) months and fifteen (15) days following the close of the first calendar or fiscal year in which any part of the income or principal is authorized or required to be applied to a charitable purpose. If any part of the income or principal of a trust previously established is authorized or required to be applied to a charitable purpose at the time this article takes effect, the first report shall be filed at the close of the calendar or fiscal year in which it was registered with the Attorney General or not later than four (4) months and fifteen (15) days following the close of such calendar or fiscal period.

SEC. 7. Section 1351.1 is added to the Health and Safety Code, to read:

1351.1. In addition to the requirements of Section 1351, each application shall be accompanied by authorization for disclosure to the commissioner of financial records of each health care service plan or specialized health care service plan licensed under this chapter pursuant to Section 7473 of the Government Code. For the purpose of this chapter, the authorization for disclosure shall also include the financial records of any association, partnership or corporation controlling, controlled by or otherwise affiliated with a health care service plan or specialized health care service plan.

SEC. 7.1. Section 1352 of the Health and Safety Code is amended to read:

1352. (a) A licensed plan shall, within 30 days after any change in the information contained in its application, other than financial or statistical information, file an amendment thereto in such manner as the commissioner may by rule prescribe setting forth such changed information. However, the addition of any association, partnership or corporation in a controlling, controlled or affiliated status relative to the plan shall necessitate filing, within a 30-day period of an authorization for disclosure to the commissioner of financial records of any such person pursuant to Section 7473 of the Government Code.

(b) Prior to any material modification of its plan or operations, a plan shall give notice thereof to the commissioner, who shall, within 20 business days or such additional time as the plan may specify, by order approve, disapprove, suspend, or postpone the effectiveness of any such change, subject to the provisions of Section 1354.

(c) A plan shall, within five days, give written notice to the commissioner in such form as by rule may be prescribed, of any change in the officers, directors, partners, controlling shareholders, principal creditors, or persons occupying similar positions or performing similar functions, of such plan and of any management company of the plan, and of any parent company of such plan or management company. The commissioner may by rule define the positions, duties, and relationships which are referred to in this subdivision.

(d) The fee for filing a notice of major modification pursuant to subdivision (b) shall be the actual cost to the commissioner of processing such notice, including overhead, but shall not exceed two hundred fifty dollars ($250).

SEC. 7.2. Section 1357 of the Health and Safety Code is amended to read:

1357. (a) It is unlawful for any person to act as a solicitor or solicitor firm in this state unless such person has first secured from the commissioner a license, then in effect, authorizing such person to do so, or unless such person is exempted pursuant to the provisions of Section 1343, except that any person who files an application for as a solicitor or solicitor firm, and who pays the fee prescribed by this section on or before July 15, 1976, may act in the capacity for which such license application is filed until such time as the application is denied by the commissioner.

(b) An applicant for a solicitor or solicitor firm license under this article shall file with the commissioner an application in the form and with such supporting documents as the commissioner prescribes, together with the fee prescribed by subdivision (d). The commissioner shall investigate applicants and licensees in such manner and in respect of such manner as the commissioner deems advisable.

(c) A solicitor's license shall be issued only to an individual. No individual may act as a solicitor except as an employee of a plan or solicitor firm.

(d) The fee for filing an application for a solicitor license is fifty dollars ($50), and payment of this amount shall keep the license, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year, during the following calendar year. Every solicitor who has secured a license from the commissioner shall, in order to keep such license in effect for an additional two-year period, pay a renewal fee of fifty dollars ($50) on or before the 15th day of December preceding the additional period.

(e) The fee for filing an application for a solicitor firm license shall be two hundred dollars ($200), and payment of this amount shall keep the license, if granted, in effect during the calendar year during which it is granted and if that year is an even-numbered year, during the following calendar year. Every solicitor firm which has secured a license from the commissioner shall, in order to keep such license in effect for an additional two-year period, pay a renewal fee of two hundred dollars ($200) on or before the 15th day of December preceding the additional period.

(f) The license of every solicitor and solicitor firm issued under this chapter shall remain in effect until revoked or suspended by the commissioner.

(g) The commissioner may, by regulation, reduce the fees required by subdivisions (d) and (e) for persons licensed pursuant to Chapter 5 (commencing with Section 1621) of Part 2 of Division

1 of the Insurance Code, but such reduced fees shall not be less than one-half of the fee prescribed in such subdivisions.

(h) Each application shall be accompanied by authorization for disclosure to the commissioner of the financial records of the solicitor or solicitor firm pursuant to Section 7473 of the Government Code.

SEC. 8. Section 904 is added to the Insurance Code, to read:

904. In addition to the annual statement required to be filed pursuant to Section 900, each admitted insurer shall file an authorization for disclosure to the commissioner of financial records pertaining to such funds pursuant to Section 7473 of the Government Code, to be effective until the next such annual filing.

SEC. 9. Section 1703 is added to the Insurance Code, to read:

1703. Every applicant for an original or a renewal license to act as an insurance agent, broker or solicitor, life agent, life analyst, surplus line broker, special lines surplus line broker, motor club agent, or bail agent or solicitor shall, as part of the application, endorse an authorization for disclosure to the commissioner of financial records of any fiduciary funds as defined in Section 1733, pursuant to Section 7473 of the Government Code.

SEC. 10. Section 11703.4 is added to the Vehicle Code, to read:

11703.4. The department may refuse to issue a license to a dealer when it determines that an applicant for a dealer's license has failed to effectively endorse an authorization for disclosure of an account or accounts relating to the operation of the dealership as provided for in Section 7473 of the Government Code.

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 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 1321

An act to amend Section 20330 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 20330 of the Government Code is amended to read:

20330. The following persons are excluded from membership in this system:

(a) Inmates of state or public agency institutions who are allowed compensation for such service as they are able to perform.

(b) Independent contractors who are not employees.

(c) Persons employed as student assistants in the state colleges or the university and persons employed as student aids in the special schools of the State Department of Education and in the public schools of the state.

(d) Blind persons and other physically handicapped persons employed by the California Industries for the Blind.

(e) Persons who have attained age 66½ or older at the time of first employment by the state or a contracting agency.

CHAPTER 1322

An act to amend Sections 13830, 14186, and 14189 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 13830 of the Education Code is amended to read:

13830. "Child" or "children" means:

(a) The unmarried offspring of a member under 18 years of age, not adopted by a person other than the spouse, and dependent upon the member on the effective date of disability allowance or death, or

(b) The unmarried child, under 18 years of age, adopted by the member, and dependent upon the member on the effective date of disability allowance or death, or

(c) The unmarried stepchild of the member, under 18 years of age, and dependent upon the member on the effective date of disability allowance or death, or

(d) The dependent unmarried child described in subdivision (a), (b) or (c) above who is under the age of 22 and who is registered as a full-time student, as defined in Section 13838.1 on the effective date of disability allowance or death.

A dependent unmarried child who is a full-time student in the month of attaining age 22, shall be deemed not to have attained such age until the first day of the month following the end of the school quarter or semester which was in progress in the month of attainment of age 22.

For those members receiving a disability allowance and who subsequently die, the maximum number of children for family benefits shall be those who were eligible on the effective date of disability allowance.

For purposes of Sections 14152, 14155 and 14156, "child" or

"children" means any offspring or adopted children of the member, retirant or other beneficiary.

SEC. 2. Section 14186 of the Education Code is amended to read:

14186. If on the date of death the member had met the following conditions:

(a) Death occurred after June 30, 1972, and

(b) Had one or more years of credited service, and

(c) If there had been a break in service of more than one year, one-half year of credited service had been performed after the end of last break, and

(d) The provisions of Sections 14180 and 14182 have been met, or

(e) Lacking the above, was a disabilitant receiving a disability allowance which began to accrue after June 30, 1972; a family allowance based upon projected salary shall be paid subject to the provisions of this article and Section 14284 as follows:

(1) To the surviving spouse, having financial responsibility for at least one dependent child who qualifies under Section 13830 there shall be paid an amount, in monthly installments, equal to 40 percent of the deceased's final compensation, plus 10 percent of such final compensation for each child, up to a maximum of 90 percent of such final compensation. If there are children who are not in the care of the surviving spouse, the amount of the allowance in excess of 40 percent of the final compensation shall be divided equally among all children and is payable to the trustee of the estate of such children under age 18 or their guardian if no trustee is designated or to the children age 18 and over, or

(2) If there is no surviving spouse or the surviving spouse subsequently dies or remarries and there are children who qualify under Section 13830, there shall be paid to the guardian of such children under age 18, or to the child if over age 18, an amount payable in monthly installments equal to 10 percent of the deceased's final compensation, up to a maximum of 50 percent of such final compensation. If there are more than five such children, they shall share equally in the maximum of 50 percent, or

(3) If there is no allowance being paid under paragraphs (1) or (2) the unremarried spouse age 60 or over shall receive a monthly payment equal to the amount which would have been payable to such spouse based on projected service and projected salary, had the member continued service to age 60 and at that time elected option number three. The allowance payable under this paragraph shall be increased by application of the benefit improvement factor for time which elapses between the date the member would have reached age 60 and the date the allowances commence to accrue under this paragraph. For the calculation of the benefit, it shall be considered that the member died on the June 30 following the actual date of death and the spouse reached age 60 on the June 30 prior to attainment of that age, but the allowance shall not begin to accrue until the spouse attains age 60.

(4) If there is no surviving spouse or children entitled to

allowances under paragraphs (1), (2), or (3) at the time of the member's death, the dependent parent, age 60, or upon attainment of that age, shall receive an allowance based on projected service and projected salary equal to the amount which would have been paid if the member had retired at age 60 and elected option number three. If there are two parents who qualify under this paragraph the total benefit will be computed on the assumption that the youngest parent is the beneficiary, and the total shall be divided equally for so long as there are two such qualifying parents. Otherwise, the total amount shall be payable to the one who qualifies.

The benefits payable under paragraphs (1) and (2) because of the death of a disabilitant shall be based on projected salary.

Allowances payable under this section are in lieu of the death benefit payable under subsection (1) of subdivision (b) of Section 14180, irrespective of the beneficiary designated to receive that benefit, except that if there are no children who qualify for an allowance under Section 13830, a spouse or the dependent parent or parents may elect, prior to the receipt of the first payment under paragraph (3) or (4), to receive the accumulated contributions in a lump sum subject to a reduction for any payments made from the account for any prior qualified persons.

SEC. 2.5. Section 14186 of the Education Code is amended to read:

14186. If on the date of death the member had met the following conditions:

(a) Death occurred after June 30, 1972, and

(b) Had one or more years of credited service, and

(c) If there had been a break in service of more than one year, one-half year of credited service had been performed after the end of last break, and

(d) The provisions of Sections 14180 and 14182 have been met, or

(e) Lacking the above, was a disabilitant receiving a disability allowance which began to accrue after June 30, 1972; a family allowance based upon projected salary shall be paid subject to the provisions of this article and Section 14284 as follows:

(1) To the surviving spouse, having financial responsibility for at least one dependent child who qualifies under Section 13830 there shall be paid an amount, in monthly installments, equal to 40 percent of the deceased's final compensation, plus 10 percent of such final compensation for each child, up to a maximum of 90 percent of such final compensation. If there are children who are not in the care of the surviving spouse, the amount of the allowance in excess of 40 percent of the final compensation shall be divided equally among all children and is payable to the trustee of the estate of such children under age 18 or their guardian if no trustee is designated or to the children age 18 and over, or

(2) If there is no surviving spouse or the surviving spouse subsequently dies or remarries and there are children who qualify under Section 13830, there shall be paid to the trustee of the estate

03513 285110 159

of surviving children under 18 as designated by the member, or the guardian of such children under age 18 if no trustee is designated, or to the child if over age 18, an amount payable in monthly installments equal to 10 percent of the deceased's final compensation, up to a maximum of 50 percent of such final compensation. If there are more than five such children, they shall share equally in the maximum of 50 percent, or

(3) If there is no allowance being paid under paragraphs (1) or (2) the unremarried spouse age 60 or over shall receive a monthly payment equal to the amount which would have been payable to such spouse based on projected service and projected salary, had the member continued service to age 60 and at that time elected option number three. The allowance payable under this paragraph shall be increased by application of the benefit improvement factor for time which elapses between the date the member would have reached age 60 and the date the allowances commence to accrue under this paragraph. For the calculation of the benefit, it shall be considered that the member died on the June 30 following the actual date of death and the spouse reached age 60 on the June 30 prior to attainment of that age, but the allowance shall not begin to accrue until the spouse attains age 60.

(4) If there is no surviving spouse or children entitled to allowances under paragraphs (1), (2), or (3) at the time of the member's death, the dependent parent, age 60, or upon attainment of that age, shall receive an allowance based on projected service and projected salary equal to the amount which would have been paid if the member had retired at age 60 and elected option number three. If there are two parents who qualify under this paragraph the total benefit will be computed on the assumption that the youngest parent is the beneficiary, and the total shall be divided equally for so long as there are two such qualifying parents. Otherwise, the total amount shall be payable to the one who qualifies.

The benefits payable under paragraph (1) and (2) because of the death of a disabilitant shall be based on projected salary.

Allowances payable under this section are in lieu of the death benefit payable under subsection (1) of subdivision (b) of Section 14180 irrespective of the beneficiary designated to receive that benefit, except that if there are no children who qualify for an allowance under Section 13830, a spouse or the dependent parent or parents may elect, prior to the receipt of the first payment under paragraph (3) or (4), to receive the accumulated contributions in a lump sum subject to a reduction for any payments made from the account for any prior qualified persons.

SEC. 3. Section 14189 of the Education Code is amended to read:

14189. There shall be deducted from the benefit payable in paragraphs (1) and (2) of Section 14186 any benefits payable to a beneficiary from other public systems, exclusive of benefits payable for reasons other than the same event which caused payment of the family benefit.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 3641 are both chaptered and become effective January 1, 1977, both bills amend Section 14186 of the Education Code, and this bill is chaptered after Assembly Bill No. 3641, that the amendments to Section 14186 proposed by both bills be given effect and incorporated in Section 14186 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 Assembly Bill No. 3641 are both chaptered and become effective January 1, 1977, both amend Section 14186, and this bill is chaptered after Assembly Bill No. 3641, in which case Section 2 of this act shall not become operative.

CHAPTER 1323

An act to add Sections 18938.5 and 18938.6 to the Government Code, relating to civil service examinations.

[Approved by Governor September 28, 1976. Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 18938.5 is added to the Government Code, to read:

18938.5. When the employment list resulting from examination has been established, each competitor shall be notified in writing of the results of the examination. For competitors unsuccessful in an oral examination, the board shall, upon the written request of the competitor, specify the reasons why such person was unsuccessful.

SEC. 2. Section 18938.6 is added to the Government Code, to read:

18938.6. The board shall provide by rule for the inspection of examination papers for all written test competitors.

CHAPTER 1324

An act to add Section 20818 to the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1976 Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 20818 is added to the Government Code, to read:

20818. Notwithstanding any other provisions of this part, when the governing body of a contracting agency determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the agency would be served, a local member shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is employed in a job classification, department, or other organizational unit designated by the governing body of the contracting agency and retires within 180 days of the effective date designated by the governing body.

(b) The governing body 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 governing body shall certify that it is electing to exercise the provisions of this section, because of impending mandatory transfers, demotions, and layoffs, resulting from the curtailment of its services.

The amount of service credit shall not be more than two years regardless of credited service and 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.

A governing body which elects to make the payment prescribed by subdivision (b) shall make such payment with respect to all eligible employees who retire during the specified period.

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments during the specified period.

Any member who qualifies under this section, upon subsequent reentry to the system shall forfeit the service credit acquired under this section.

This section shall not apply to any member who is not employed by the contracting agency during the period designated in subdivision (a).

This section shall not apply to any contracting agency unless and until the agency elects to be subject to the provision of this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after the effective date of this section, by express provision in such contract making the contracting agency subject to the provisions of this section.

This section shall remain in effect only until January 1, 1979, and as of such date is repealed, unless a latter enacted statute, which is chaptered before January 1, 1979, deletes or extends such date.

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

This act must take effect immediately in order that local agencies 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 local employees if mandatory transfer, layoff, or demotion become necessary.

CHAPTER 1325

An act making an appropriation for the state park system, and in this connection amending and supplementing the Budget Act of 1976 by adding Section 2.5A thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1976 Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Section 2.5A is added to the Budget Act of 1976, to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

Sec. 2.5A. The following sums of money, or so much thereof as may be necessary, unless otherwise provided herein, are hereby appropriated for the 1976–77 fiscal year beginning July 1, 1976, and ending June 30, 1977. All such appropriations, unless otherwise herein provided, shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1964.

CAPITAL OUTLAY

Resources

403.1A—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (a) and (b) of Section 5096.15 of the Public Resources Code, for expenditure during the 1976–77 fiscal year, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964 766,886

Schedule:

(a) Acquisition and development of South County Park, County of San Joaquin, for the state park system 766,886

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.

SEC. 2. The County of San Joaquin shall transfer to the state the land and property designated as the South County Park. In consideration for such a transfer, the Department of Parks and Recreation shall improve such land and property for park purposes and enter into a contract with the County of San Joaquin, pursuant to Section 5007 of the Public Resources Code, providing for the exclusive control of the use of such land and property by the county for park purposes.

SEC. 3. No funds appropriated by Section 1 of this act may be expended unless and until the County of San Joaquin transfers to the state the land and property designated as the South County Park pursuant to Section 2 of this act.

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

In order for the state to acquire and preserve lands of significant environmental value, it is necessary that this act take immediate effect.

CHAPTER 1326

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

[Approved by Governor September 27, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. The sum of two hundred fifty-five thousand dollars ($255,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation for acquisition, as a unit of the state park system, of approximately 13.9 acres, and improvements thereon, of property situated in the County of Contra Costa near Danville and known as "Tao House," the former

residence of the playwright Eugene O'Neill. No funds appropriated for this purpose may be expended until the department enters into an agreement with the County of Contra Costa or The Eugene O'Neill Foundation, Tao House, a California nonprofit corporation, or both the county and foundation (hereinafter referred to, singly and jointly, as the "operator"), for the development, improvement, restoration, care, maintenance, and control of the property, in accordance with plans and standards approved by, and under the supervision of, the department, by the operator and at the operator's expense. The agreement shall stipulate that the operator shall restore the property so as to reflect its historical connections with Eugene O'Neill and his plays written during his residence there and that the property shall be used as a cultural center for the benefit of the people of the State of California and may be used for the purpose of encouraging and fostering California playwrights and dramatic performers and pursuant to such terms and conditions as the California Arts Council shall develop, in conjunction with the operator, to achieve that purpose. The agreement shall also stipulate that the operator shall donate to the state all funds, from whatever source, received for the express purpose of acquiring the property.

SEC. 2. The Director of Parks and Recreation shall transmit to the State Treasurer, for deposit in the Collier Park Preservation Fund, any funds donated pursuant to the stipulation in the agreement, as required by Section 1.

SEC. 3. The acquisition authorized by this act shall be subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

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

Inasmuch as the foundation has already made a downpayment on the property and inasmuch as additional interest costs will be incurred and additional property taxes will become due if an appropriation for the purchase of the property is not made promptly during the 1975–76 Regular Session of the Legislature, it is necessary that this act take effect immediately.

CHAPTER 1327

An act to add and repeal Title 7.75 (commencing with Section 67450) to the Government Code, relating to mountain and coastal resources, and making an appropriation therefor.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Title 7.75 (commencing with Section 67450) is added to the Government Code, to read:

TITLE 7.75. SANTA MONICA MOUNTAINS COMPREHENSIVE PLANNING COMMISSION

CHAPTER 1. GENERAL PROVISIONS

67450. The Legislature hereby finds and declares that the Santa Monica Mountains Zone, as defined in Section 67464, is a unique and valuable economic, environmental, agricultural, scientific, educational, and recreational resource which should be held in trust for present and future generations; that as the last large undeveloped area contiguous to the shoreline within the greater Los Angeles metropolitan region, comprised of Los Angeles and Ventura Counties, it provides essential relief from the urban environment; and that it exists as a single ecosystem in which changes that affect one part may also affect all other parts; and that the preservation and protection of this resource is in the public interest.

67451. The Legislature further finds and declares that planning for the zone is fragmented and there are ineffective means of determining and resolving conflicting interjurisdictional values, or of evaluating individual projects within the zone as to their effect on the entire region; that in the absence of a governmental mechanism to perform such evaluations, piecemeal development projects occurring within the zone may result in the irreplaceable loss of open space and recreational resources, in the physical and biological deterioration of air, land and water systems within the zone, and may adversely affect regional life-support systems, including fish and wildlife, therefore being harmful to the needs of the present and future population of the region.

67452. The Legislature further finds and declares that in order to protect the public interest in the zone, a regional approach may be necessary, to be carried out by the Santa Monica Mountains Comprehensive Planning Commission created by this title and comprised of representatives of the state government, cities and counties in the region, and the general public; that this approach, treating the zone as a unit, should begin with a detailed study of all the characteristics of the zone which are specified in the final report of the Ventura-Los Angeles Mountain and Coastal Study Commission, and should give consideration to the master plans of cities and counties of jurisdiction within the zone; and that the study should lead to the preparation of a comprehensive and specific plan, which is capable of implementation, for the conservation and development of the zone, consistent with the preservation of the resource as set forth in Section 67450.

67453. This title shall be known and may be cited as the Santa Monica Mountains Comprehensive Planning Act.

CHAPTER 2. DEFINITIONS

67460. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this title.

67461. "Commission" means the Santa Monica Mountains Comprehensive Planning Commission.

67462. "Region" means the greater Los Angeles metropolitan region, comprised of Los Angeles and Ventura Counties.

67463. (a) "Zone" means the Santa Monica Mountains Zone, which includes that part of the land and water area of the greater Los Angeles metropolitan region, seaward to the outermost limit of the state's jurisdiction, landward by the shortest possible line to the mouth of Calleguas Creek, thence following Calleguas Creek northward to its intersection with the corporate boundary of Camarillo, thence following the southern boundary of the City of Camarillo eastward until it intersects the Ventura Freeway, thence following the Ventura Freeway eastward to a point of intersection with the western boundary of the Malibu Creek Watershed. The northern boundary continues thence along the boundary of the Watershed to its intersection again with the Ventura Freeway on the east; thence eastward along this freeway to its intersection with the corporate boundary of the City of Los Angeles, thence continuing on a line drawn one-quarter of a mile south of the Ventura Freeway to its intersection with Ventura Boulevard and continuing on a line one-quarter mile south from Ventura Boulevard eastward to its intersection with Sepulveda Boulevard; thence continuing eastward along Valley Vista Boulevard to its intersection with Dixie Canyon Avenue and from this point continuing eastward on a line one-quarter mile south of Ventura Boulevard to its intersection with a linear projection of Lankershim Boulevard and there northeasterly on this projection and continuing on Lankershim Boulevard to its intersection with Cahuenga Boulevard, thence east along Cahuenga Boulevard to its intersection with a linear projection of Barham Boulevard, and thence northeasterly along such projection and continuing upon Barham Boulevard to its intersection with the Los Angeles River, and eastward along the south bank of the Los Angeles River to its intersection with the boundary of Griffith Park, thence following the Griffith Park boundary southward and westward to its westernmost southern boundary point, thence following a direct line drawn southwest to the intersection of Sunset Boulevard with the corporate boundary of the City of Los Angeles near the intersection of Sunset Boulevard and Marmount Lane, thence continuing westward following the Los Angeles corporate boundary to its intersection with the boundary of the City of Beverly Hills, thence following the northern boundary of the City of Beverly Hills until it returns to Sunset Boulevard, thence following Sunset Boulevard westward to its point of intersection with the Pacific Coast Highway (Route 1), thence seaward on this line to the outermost limit of the state's jurisdiction and also including the area commonly known as Elysian Park.

(b) "Zone" does not include any area located in the coastal zone as defined in Section 30103 of the Public Resources Code and shall not be subject to the provisions of this division.

This subdivision shall become operative only if Senate Bill No. 1277 of the 1975–76 Regular Session of the Legislature is enacted.

CHAPTER 3. SANTA MONICA MOUNTAINS COMPREHENSIVE PLANNING COMMISSION

67470. The Santa Monica Mountains Comprehensive Planning Commission is hereby created. The commission shall consist of the following 14 members:

(a) The Director of the Office of Planning and Research, or his or her designee.

(b) One member of the Board of Supervisors of Los Angeles County, elected by such board of supervisors.

(c) One member of the Board of Supervisors of Ventura County, elected by such board of supervisors.

(d) One duly authorized representative of the Mayor of the City of Los Angeles, and one member of the Los Angeles City Council who represents an area which falls in whole or in part within the zone, such member to be appointed by the president of the city council.

(e) One elected representative from the City of Thousand Oaks, elected by the city council.

(f) Eight members of the public, who shall be residents of the region. Each public member shall be a person who, as a result of his or her experience and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information, to appraise resource uses in light of the policies set forth in this title, and to be responsive to the scientific, social, aesthetic, recreational, cultural, and economic needs of the state. Four of such members, and the executive director, shall be appointed by the Governor, two by the Committee on Rules of the Senate, and two by the Speaker of the Assembly.

67470.5. The members of the commission shall serve at the pleasure of their respective appointing or electing powers.

67471. 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.

67472. (a) The commission shall hold at least two meetings a month and may meet in subcommittee with authority to conduct hearings within special areas of interest. The public shall be given reasonable prior notice of the time and place of commission meetings and hearings, and all such meetings and hearings shall be open to the public.

(b) All meetings and hearings of the commission shall be held at a place reasonably convenient to its members and the public in a

meeting room that affords adequate space for its members, its staff, the news media, and the public that may reasonably be expected to attend.

(c) Commission actions are subject to the following conditions:

(1) No action may be taken except at a regularly scheduled meeting.

(2) No action may be taken unless a quorum, consisting of eight members, is present at the meeting.

(3) All actions require the affirmative vote of eight members.

67473. The time and place of the first meeting of the commission shall be prescribed by the Governor, but in no event, shall it be scheduled for a date later than 30 days after the effective date of this title. All members of the commission shall be elected, selected, or appointed not later than 15 days after the effective date of this title.

67474. The commission shall select from among its members a chairman and a vice chairman.

67475. All vacancies in the commission membership shall be filled in the same manner in which original appointments were made.

67476. The headquarters of the commission shall be in the City of Los Angeles.

CHAPTER 4. POWERS AND DUTIES OF THE COMMISSION

67480. The commission shall make a detailed study of all the characteristics of the zone which are specified in the final report of the Ventura-Los Angeles Mountain and Coastal Study Commission, including but not limited to a study of land capabilities and the private and public short- and long-term costs and benefits which would accrue to a representative sampling of probable and possible development or changes in the density or intensity of use of the land within the zone. The above considerations shall include an examination of the relationship of the zone to the region. Upon the basis of such studies, the commission shall prepare a comprehensive and specific plan, which is capable of implementation, for the conservation and development of the zone. The regional plan shall include the following correlated elements, and in developing these elements the commission shall consider the cumulative impact of the problems of air pollutants, surface runoff, flooding, erosion, siltation or landsliding, or development of new sanitary facilities that would cause material pollution of streams, aquifers, or ocean waters:

(a) A land use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land and other natural resources.

(b) A transportation plan which includes provision for public access, especially to recreation and scenic areas.

(c) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the zone.

(d) A recreation plan for the development, utilization, and

management of the recreational resources of the zone.

(e) A public services and facilities plan for the general location, scale, and provision of public services and facilities, which, by the nature of their function, size, extent, and other characteristics, are necessary or appropriate for inclusion in the regional plan.

(f) An economic element which reflects the cost-benefit analysis provided for in this section.

67481. (a) In making its study and developing its comprehensive plan, the commission shall cooperate to the fullest extent possible with all affected local and areawide agencies, which agencies shall provide to the commission any available existing data, including plans, which shall assist the commission in carrying out its responsibilities pursuant to this title. In order to avoid duplication of work, the commission shall make use of available data. The commission shall transmit an official transcript of its hearings on any issue it deems to be of major regional importance to the overall federally recognized regional planning agency of jurisdiction.

(b) In preparing its comprehensive plan, the commission shall, to the fullest extent possible, coordinate its planning for the zone with the planning of the coastal zone under the provisions of Division 20 (commencing with Section 30000) of the Public Resources Code.

This subdivision shall become operative only if Senate Bill No. 1277 of the 1975–76 Regular Session of the Legislature is enacted.

67482. The commission may:

(a) Accept any gifts, donations, or bequests from individuals or organizations, or accept grants of funds from private or public agencies.

(b) Contract for professional services required by the commission or for the performance of work and services which in its opinion cannot satisfactorily be performed by its officers and employees or by other federal, state, or local governmental agencies.

(c) Do any and all other things necessary to carry out the purposes of this title.

(d) Sue and be sued.

67483. The executive director shall, subject to approval of the commission, employ such staff as may be necessary to carry out the functions of the commission.

67484. Within six months from the date of the first meeting of the commission, the chairman of the commission, in collaboration with and with the concurrence of the commission, shall appoint a citizens' advisory committee to assist and advise the commission in carrying out its functions.

CHAPTER 5. FINAL REPORT AND TERMINATION OF EXISTENCE OF THE COMMISSION

67485. The commission shall file a final report with the Governor and the Legislature not later than July 1, 1978.

67486. The final report shall contain all of the following:

(a) The results of the detailed study made by the commission.

(b) The comprehensive plan developed by the commission for the conservation and development of the zone.

(c) The commission's recommendation of the appropriate agency or agencies to maintain and carry out the comprehensive plan.

(d) The commission's estimate of the approximate amount of money that will be necessary to maintain and carry out the comprehensive plan, including, but not limited to, the commission's estimate of the approximate amount of money that will be necessary to purchase real property which the commission may recommend to be purchased for public use, and an indication of the possible sources of money for such purposes.

(e) Such other information and recommendations as the commission deems desirable.

67487. Upon adoption of its comprehensive plan, the commission shall transmit the plan to the Governor, the Legislature, the Office of Planning and Research, the City of Los Angeles, the County of Los Angeles, the County of Ventura, the Southern California Association of Governments, the City of Thousand Oaks, the Secretary of the Resources Agency, and to any public agency as the commission shall deem appropriate.

67488. This title shall remain in effect only until January 1, 1979, and as of that date is repealed.

SEC. 2. 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. 3. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Santa Monica Mountains Comprehensive Planning Commission, established pursuant to Title 7.75 (commencing with Section 67450) of the Government Code, for expenditure for the support of the commission.

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 because the cost of implementing this legislation is minimal in relation to the effect on local tax rates.

CHAPTER 1328

An act making an appropriation for state parks, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Notwithstanding the provisions of Section 5098.2 of the Public Resources Code, the sum of four hundred seventy-seven thousand dollars ($477,000) is appropriated from the Park and Recreation Revolving Account of the General Fund to the Department of Parks and Recreation for development of an Indian cultural center at Indian Grinding Rock State Historic Park; provided, however, that expenditures from the amount appropriated by this act shall be reduced by the amount of funds made available for the cultural center from the appropriation made in Chapter 1201 of the Statutes of 1975 or from any other source.

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 project to be financed by this act is already under construction and to avoid costly delays it is necessary for additional funds to be available immediately.

CHAPTER 1329

An act to amend Section 66801 of the Government Code, relating to Tahoe regional planning.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 66801 of the Government Code is amended to read:

66801. The provisions of this interstate compact executed between the States of Nevada and California are as follows:

TAHOE REGIONAL PLANNING COMPACT

Article I. Findings and Declarations of Policy

It is found and declared that:

(a) The waters of Lake Tahoe and other resources of the region

are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.

(b) The state and federal interest and investment in the Lake Tahoe region is substantial.

(c) The Tahoe region exhibits unique state and national environmental and ecological values which are irreplaceable.

(d) By virtue of the special conditions and circumstances of the natural ecology, developmental pattern, population distribution and human needs in the Lake Tahoe region, the region is experiencing problems of resource use and deficiencies of environmental control.

(e) Increasing urbanization is threatening the ecological values of the Tahoe region and threatening the public opportunities for use of the public lands.

(f) Maintenance of the social and economic health of the Tahoe region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by the Lake Tahoe Basin.

(g) There is a state and national interest in protecting, preserving and enhancing these values for the residents of and visitors to the area.

(h) The primary responsibility for the provision of recreational, educational, and scientific opportunities, the preservation of scenic and natural areas, and the safeguarding of the public who live, work and play in or visit the area rests with the States of California and Nevada and the federal government.

(i) In recognition of the public investment and multistate and national significance of the recreational values, the federal government has an interest in the management of the resources and should assist in the states fulfilling their responsibilities.

(j) There is a need to maintain an equilibrium between the region's natural endowment and its manmade environment, to preserve the scenic beauty and recreational opportunities of the region, to assure the protection of the public health by preserving the airshed of the region; and it is recognized that in order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established an areawide planning agency with power to adopt and enforce a regional plan of resource conservation, use and renewal to exercise effective environmental controls and to perform other essential functions as enumerated in this title, in concert with state and federal policy.

Article II. Definitions

As used in this compact:

(a) "Region," includes Lake Tahoe, the adjacent parts of Douglas and Washoe Counties and Carson City, which for the purposes of this compact shall be considered a "county," lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of

California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B.&M. The region defined and described herein shall be precisely delineated on official maps of the agency.

(b) "Agency" means the Tahoe Regional Planning Agency.

(c) "Governing body" means the governing board of the Tahoe Regional Planning Agency.

(d) "Regional plan" shall mean the long-term general plan for the development of the region.

(e) "Interim plan" shall mean the interim regional plan adopted pending the adoption of the regional plan.

(f) "Planning commission" means the advisory planning commission appointed pursuant to paragraph (h) of Article III.

Article III. Organization

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

One member shall be appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Such persons may be a member of the city council or county board of supervisors and shall reside in the territorial jurisdiction of the governmental body making the appointment.

One member shall be appointed by each of the Boards of County Commissioners of Douglas and Washoe Counties and one member appointed by the Board of Supervisors of Carson City. Any member so appointed shall be a resident of the county from which he is appointed and may be a member of the board which appoints him.

A person so appointed shall before taking his seat on the governing body disclose all his economic interests in the region, and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. If any appointment required by this paragraph is not made within 30 days after the effective date of this act or the occurrence of a vacancy on the governing body, the Governor of the affected state shall make such appointment. The position of a member so appointed shall be deemed vacant if such member is absent from three consecutive meetings of the governing body in any calendar year.

Three members appointed by the Governor of California and one member appointed by the Governor of Nevada. The appointment of the California members shall be subject to Senate confirmation. The California members shall represent the public at large. One such

California member may be a resident of any county including residents of the region, one shall be a resident of one of the 10 southernmost counties of California, and the other shall be a resident of one of the remaining counties but not a resident of the region. The member appointed by the Governor of Nevada may be a resident of the region and shall represent the public at large.

The Secretary of the California Resources Agency or the secretary's designee and the Director of the Nevada Department of Conservation and Natural Resources or the director's designee.

The Lieutenant Governor and the Secretary of State of the State of Nevada, or their deputies.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body represented in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) The term of office of the appointive members of the governing body shall be at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every four years.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as "the first Monday of each month," and shall not change such date oftener than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date, place and agenda at least five days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon loss of any of the qualifications required for appointment and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairperson and vice chairperson, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body shall fill such vacancy for the unexpired term.

(g) A majority of the members of the governing body from each state shall constitute a quorum for the transaction of the business of the agency. A majority vote of the members present representing each state shall be required to take action with respect to any matter. If the majority vote of the members from one state does not agree

with the majority vote of the members from the other state, a final action of rejection of the matter before the governing body shall be deemed to have been taken. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: the Chief Planning Officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and Douglas County, Washoe County and Carson City in Nevada, or the chief planning officer's designee; the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, or the executive officer's designee; the executive officer of the Air Resources Board of the State of California, or the executive officer's designee; the Chief of the Bureau of Environmental Health of the State of Nevada, or the chief's designee; the Air Pollution Control Officer of the State of Nevada, or the control officer's designee; the Administrator of the United States Forest Service Lake Tahoe Management Unit, or the administrator's designee; and at least four lay members, with an equal number from each state, each of whom shall be a resident of the region.

(1) The term of office of each lay member of the advisory planning commission shall be two years.

(2) The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointment, and in such event the appointing authority shall appoint a successor.

(3) The advisory planning commission shall elect from its own members a chairperson and a vice chairperson, whose terms of office shall be two years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

(4) A majority of the members of the advisory planning commission shall constitute a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be open to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken. Upon receipt of certified copies of the resolutions or notifications appointing the members of the governing body, the Secretary of State of each respective state shall notify the Governor of the state who shall, after consultation with the Governor of the

other state, issue a concurrent call for the organization meeting of the governing body at a location determined jointly by the two governors.

(k) Each state may provide by law for the disclosure or elimination of conflicts of interest on the part of members of the governing body appointed from that state. The California members shall be considered state officers for purposes of Chapter 8 (commencing with Section 87100) of Title 9.

Article IV. Personnel

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this act or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

(d) No member or employee of the agency shall be liable in damages for any act or omission in the course of his official duties, unless such act or omission is malicious.

Article V. Planning

(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this paragraph shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this paragraph.

If a request is made for the amendment of the regional plan by:

(1) A political subdivision a part of whose territory would be affected by such amendment; or

(2) The owner or lessee of real property which would be affected by such amendment,

the governing body shall complete its action on such amendment within 60 days after such request is delivered to the agency.

Tahoe Regional Plan

(b) Within 15 months after the formation of the agency, the planning commission shall recommend a regional plan. Within 18 months after the formation of the agency, the governing body shall adopt a regional plan. After adoption, the planning commission and governing body shall continuously review and maintain the regional plan. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall include the following correlated elements:

(1) A land use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to, an indication or allocation of maximum population densities.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to, freeways, parkways, highways, transportation facilities, transit routes, waterways, navigation and aviation aids and facilities, and appurtenant terminals and facilities for the movement of people and goods within the region.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and

parkways, riding and hiking trails, beaches and playgrounds, marinas and other recreational facilities.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region. No plan, ordinance, rule, regulation or policy of the agency shall establish a lower standard or allowable use than any county, political subdivision, state, or federal standard in effect on the day prior to the ratification of the amendments to the compact; provided, however, that the standards or allowable uses set by any state, or any county or political subdivision of a state, shall not be given effect in any other state. The minimum standards or allowable uses required to be provided for in any plan, ordinance, rule, regulation, or policy pursuant to this article may be amended by a vote in favor of such amendment, pursuant to the procedure specified in subdivision (g) of Article III, concurred in by not less than two-thirds of all the members of the agency from each state. Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private individuals.

(c) All provisions of the Tahoe regional general plan shall be enforced by the agency and by the states, counties and cities in the region.

Tahoe Regional Interim Plan

(d) Within 60 days after the formation of the agency, the planning commission shall recommend a regional interim plan. Within 90 days after the formation of the agency, the governing body shall adopt a regional interim plan. The interim plan shall consist of statements of development policies, criteria and standards for planning and development, of plans or portions of plans, and projects and planning decisions, which the agency finds it necessary to adopt and administer on an interim basis in accordance with the substantive powers granted to it in this agreement.

(e) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan and interim plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(f) All provisions of the interim plan shall be enforced by the agency and by the states, the counties, and cities.

Article VI. Agency's Powers

(a) The governing body shall adopt all necessary ordinances, rules, regulations and policies to effectuate the adopted regional and interim plans. Every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the basin, and any political subdivision may adopt and enforce an equal or higher standard applicable to the same subject of regulation in its territory. No plan, ordinance, rule, regulation or policy of the agency shall establish a lower standard or allowable use than any county, political subdivision, state, or federal standard in effect on the day prior to the ratification of the amendments to the compact; provided, however, that the standards or allowable uses set by any state, or any county or political subdivision of a state, shall not be given effect in any other state. The minimum standards or allowable uses required to be provided for in any plan, ordinance, rule, regulation, or policy pursuant to this article may be amended by a vote in favor of such amendment, pursuant to the procedure specified in subdivision (g) of Article III, concurred in by not less than two-thirds of all the members of the agency from each state. The regulations shall contain general, regional standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers; harbors, breakwaters; or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobilehome parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the interim plan or the regional plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the interim or regional plan.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the interim plan or the regional plan, no ordinance shall become effective until 60 days after its adoption.

04160 28635 272

Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

Interim regulations shall be adopted within 90 days from the formation of the agency and final regulations within 18 months after the formation of the agency.

(b) All ordinances, rules, regulations and policies adopted by the agency shall be enforced by the agency and by the respective states, counties, and cities. The appropriate courts of the respective states, each within its limits of territory and subject matter provided by state law, are vested with jurisdiction over civil actions to which the agency is a party and criminal actions for violations of its ordinances. Each such action shall be brought in a court of the state where the violation is committed or where the property affected by a civil action is situated, unless the action is brought in a federal court. For this purpose, the agency shall be deemed a political subdivision of both the State of California and the State of Nevada.

(c) All plans, programs and proposals of the State of California or Nevada, or of its executive or administrative agencies, which would be undertaken in the region, including but not limited to public works plans, programs and proposals concerning highway routing, design and construction, shall be referred to the agency for its review, as to conformity with the regional plan or interim plan, and for report and recommendations by the agency to the executive head of the state agency concerned and to the Governor.

(d) All public works projects shall be reviewed prior to construction and approved by the agency as to the project's compliance with the regional plan or interim plan.

(e) The agency shall police the region to ensure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

(f) Any person or governmental entity who violates any provision of this compact shall be subject to a civil fine not to exceed ten thousand dollars ($10,000). In addition, any person or governmental entity who performs any development in violation of this compact shall be subject to a civil fine not to exceed five hundred dollars ($500) per day for each day in which such violation persists. The amount of any civil penalty imposed shall be awarded to the Tahoe Regional Planning Agency to be used exclusively for enforcement purposes.

(g) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

(h) Each intergovernmental contract or agreement shall provide

for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(i) Every record of the agency, whether public or not, shall be open for examination to the State Controller of the State of California and the Legislative Auditor of the Nevada Legislative Counsel Bureau.

(j) Whenever under the provisions of this article or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any proposal, public or private, the agency shall take final action by vote, whether to approve, to require modification or to reject such proposal, within 60 days after such proposal is delivered to the agency in compliance with the agency's rules and regulations governing such delivery. If the majority vote of the members from one state does not agree with the majority vote of the members from the other state, a final action of rejection of the matter before the governing body shall be deemed to have been taken. If a final action by vote does not take place within 60 days, the applicant may through a court of competent jurisdiction seek action in mandamus to compel a vote. This provision shall not be deemed to limit the rights of any person to obtain judicial review of agency action under paragraph (b) of this article.

(k) All environmental impact reports, statements, or studies required by California, Nevada, or federal law, which pertain to proposals affecting the region shall be delivered to the agency for review and recommendation prior to final action. For purposes of the National Environmental Policy Act (42 U.S.C., Sec. 4321), the agency shall be deemed a federal agency.

Article VII. Finances

(a) Except as provided in subdivision (e), on or before December 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion seventy-five thousand dollars ($75,000) of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay eighteen thousand seven hundred fifty dollars ($18,750) to the agency and each county within the region in Nevada shall pay twelve thousand five hundred dollars ($12,500) to the agency. Each county shall pay the sum allotted to it by the agency from any funds available therefor. The State of California and the State of Nevada shall pay to the agency by July 1 of each year, on the basis of a two-to-one ratio, respectively, an additional sum necessary to support the operations of the agency pursuant to this compact.

(b) The agency may fix and collect reasonable fees for any

services rendered by it.

(c) The agency shall submit an itemized budget to the states for review with any request for state funds, shall be strictly accountable to any county in the region and the states for all funds paid by them to the agency, and shall be strictly accountable to all participating bodies for all receipts and disbursements.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in paragraph (i) of Article III.

(e) As soon as possible after the ratification of this compact, the agency shall estimate the amount of money necessary to support its activities:

(1) For the remainder of the then current fiscal year; and

(2) If the first estimate is made between January 1 and June 30, for the fiscal year beginning on July 1 of that calendar year.

The agency shall then allot such amount among the several counties, subject to the restriction and in the manner provided in paragraph (a), and each county shall pay such amount. If additional funds are required the agency shall make a request, accompanied by an itemized budget, from the States of California and Nevada, which sum shall be paid on the basis of a two-to-one ratio, respectively.

(f) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the states for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

Article VIII. Miscellaneous

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in paragraph (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation or distribution of interstate waters or upon any appropriative water right.

SEC. 2. Section 1 of this act shall become effective only upon the adoption by the State of Nevada of those amendments to the Tahoe Regional Planning Compact as provided for in Section 1, ratification of such amendments by the Congress of the United States and approval by the President of the United States of America.

SEC. 3. Subdivision (d) of Article IV is declaratory of existing law.

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 because there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1330

An act to add Division 20 (commencing with Section 30000) to, and to amend Sections 4551.5, 25103, 25302, 25500, 25507, 25508, 25514, 25519, 25523, and 25526 of, and to add Section 25516.1 to, and to repeal Section 25115 of, the Public Resources Code, to amend Section 402.1 of the Revenue and Taxation Code, and to add Section 13142.5 to the Water Code, relating to coastal resources.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 29, 1976.]

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

SECTION 1. Division 20 (commencing with Section 30000) is added to the Public Resources Code, to read:

DIVISION 20. CALIFORNIA COASTAL ACT

CHAPTER 1. FINDINGS AND DECLARATIONS AND GENERAL PROVISIONS

30000. This division shall be known and may be cited as the California Coastal Act of 1976.

30001. The Legislature hereby finds and declares:

(a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.

(b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

30001.2. The Legislature further finds and declares that, notwithstanding the fact electrical generating facilities, refineries, and coastal-dependent developments, including ports and commercial fishing facilities, offshore petroleum and gas development, and liquefied natural gas facilities, may have significant adverse effects on coastal resources or coastal access, it may be necessary to locate such developments in the coastal zone in order to ensure that inland as well as coastal resources are preserved and that orderly economic development proceeds within the state.

30001.5. The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

(a) Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

(d) Assure priority for coastal-dependent development over other development on the coast.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

30002. The Legislature further finds and declares that:

(a) The California Coastal Zone Conservation Commission, pursuant to the California Coastal Zone Conservation Act of 1972

(commencing with Section 27000), has made a detailed study of the coastal zone; that there has been extensive participation by other governmental agencies, private interests, and the general public in the study; and that, based on the study, the commission has prepared a plan for the orderly, long-range conservation, use, and management of the natural, scenic, cultural, recreational, and manmade resources of the coastal zone.

(b) Such plan contains a series of recommendations which require implementation by the Legislature and that some of those recommendations are appropriate for immediate implementation as provided for in this division while others require additional review.

30003. All public agencies and all federal agencies, to the extent possible under federal law or regulations or the United States Constitution, shall comply with the provisions of this division.

30004. The Legislature further finds and declares that:

(a) To achieve maximum responsiveness to local conditions, accountability, and public accessibility, it is necessary to rely heavily on local government and local land use planning procedures and enforcement.

(b) To ensure conformity with the provisions of this division, and to provide maximum state involvement in federal activities allowable under federal law or regulations or the United States Constitution which affect California's coastal resources, to protect regional, state, and national interests in assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the people of the state, and to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources, to coordinate and integrate the activities of the many agencies whose activities impact the coastal zone, and to supplement their activities in matters not properly within the jurisdiction of any existing agency, it is necessary to provide for continued state coastal planning and management through a state coastal commission.

30005. No provision of this division is a limitation on any of the following:

(a) Except as otherwise limited by state law, on the power of a city or county or city and county to adopt and enforce additional regulations, not in conflict with this act, imposing further conditions, restrictions, or limitations with respect to any land or water use or other activity which might adversely affect the resources of the coastal zone.

(b) On the power of any city or county or city and county to declare, prohibit, and abate nuisances.

(c) On the power of the Attorney General to bring an action in the name of the people of the state to enjoin any waste or pollution of the resources of the coastal zone or any nuisance.

(d) On the right of any person to maintain an appropriate action for relief against a private nuisance or for any other private relief.

30006. The Legislature further finds and declares that the public

has a right to fully participate in decisions affecting coastal planning, conservation, and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

30007. Nothing in this division shall exempt local governments from meeting the requirements of state and federal law with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any law hereafter enacted.

30007.5. The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

30008. This division shall constitute California's coastal zone management program within the coastal zone for purposes of the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.) and any other federal act heretofore or hereafter enacted or amended that relates to the planning or management of coastal zone resources.

30009. This division shall be liberally construed to accomplish its purposes and objectives.

CHAPTER 2. DEFINITIONS

30100. Unless the context otherwise requires, the definitions in this chapter govern the interpretation of this division.

30100.5. "Coastal county" means a county or city and county which lies, in whole or in part, within the coastal zone.

30101. "Coastal-dependent development or use" means any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

30101.5. "Coastal development permit" means a permit for any development within the coastal zone that is required pursuant to subdivision (a) of Section 30600.

30102. "Coastal plan" means the California Coastal Zone Conservation Plan prepared and adopted by the California Coastal Zone Conservation Commission and submitted to the Governor and the Legislature on December 1, 1975, pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000).

30103. (a) "Coastal zone" means that land and water area of the

State of California from the Oregon border to the border of the Republic of Mexico, specified on the maps identified and set forth in Section 17 of that chapter of the Statutes of the 1975–76 Regular Session enacting this division, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, nor any area contiguous thereto, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area.

(b) The commission shall, within 60 days after its first meeting, prepare and adopt a detailed map, on a scale of one inch equals 24,000 inches for the coastal zone and shall file a copy of such map with the county clerk of each coastal county. The purpose of this provision is to provide greater detail than is provided by the maps identified in Section 17 of that chapter of the Statutes of the 1975–76 Regular Session enacting this division. The commission may adjust the inland boundary of the coastal zone the minimum landward distance necessary, but in no event more than 100 yards, to avoid bisecting any single lot or parcel or to conform it to readily identifiable natural or manmade features.

30105. (a) "Commission" means the California Coastal Commission. Whenever the term California Coastal Zone Conservation Commission appears in any law, it means the California Coastal Commission.

(b) "Regional commission" means any regional coastal commission. Whenever the term regional coastal zone conservation commission appears in any law, it means the regional coastal commission.

30106. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation

other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

30107. "Energy facility" means any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.

30108. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

30108.2. "Fill" means earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

30108.4. "Implementing actions" means the ordinances, regulations, or programs which implement either the provisions of the certified local coastal program or the policies of this division and which are submitted pursuant to Section 30502.

30108.5. "Land use plan" means the relevant portions of a local government's general plan, which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions.

30108.6. "Local coastal program" means a local government's land use plans, zoning ordinances, zoning district maps, and implementing actions which, when taken together, meet the requirements of, and implement the provisions and policies of, this division at the local level.

30109. "Local government" means any chartered or general law city, chartered or general law county, or any city and county.

30109.5. "Major energy facility" means any electric power generating plant and related facility or combination of plants and related facilities planned for a single site or with a combined capacity of 20,000 kilowatts or more, any high voltage transmission line with a capacity of 200 kilovolts or more, any facility or combination of facilities planned for a single site designed for or capable of storing more than 10,000 barrels of crude petroleum or petroleum fuels or derivatives thereof, any pipeline greater than six inches in diameter used for the transportation of crude petroleum or petroleum fuels or derivatives thereof to or from a site used for storage, production, or processing of such materials, any pipeline for transporting natural or synthetic gas at pressures in excess of 200 pounds per square inch to or from a site used for storage, production, or processing of such materials, any facility or combination of facilities designed for or capable of storing on a single site more than 2,400 barrels of liquefied natural gas, liquid petroleum gas, or synthetic gas, any gas storage tank farm with a planned storage volume greater than 250,000 cubic

41277 30121 15 306

feet, any facility or combination of facilities designed or capable of serving as a depot for more than 1,000 short tons of coal, any petroleum refinery, oil, and gas separation facility, gas treatment facility, onshore or offshore oil production or recovery facility, new or expanded tanker terminal, or petrochemical processing or treatment facility.

30110. "Permit" means any license, certificate, approval, or other entitlement for use granted or denied by any public agency which is subject to the provisions of this division.

30111. "Person" means any individual, organization, partnership, or other business association or corporation, including any utility, and any federal, state, local government, or special district or an agency thereof.

30112. "Port governing body" means the Board of Harbor Commissioners or Board of Port Commissioners which has authority over the Ports of Hueneme, Long Beach, Los Angeles, and San Diego Unified Port District.

30113. "Prime agricultural land" means those lands defined in Section 51201 of the Government Code.

30114. "Public works" means the following:

(a) All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

(b) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities. For purposes of this division, neither the Ports of Hueneme, Long Beach, Los Angeles, nor San Diego Unified Port District nor any of the developments within these ports shall be considered public works.

(c) All publicly financed recreational facilities and any development by a special district.

(d) All community college facilities.

30115. "Sea" means the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks, and flood control and drainage channels.

30116. "Sensitive coastal resource areas" means those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. "Sensitive coastal resource areas" include the following:

(a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped and designated in Part 4 of the coastal plan.

(b) Areas possessing significant recreational value.

(c) Highly scenic areas.

(d) Archaeological sites referenced in the California Coastline

and Recreation Plan or as designated by the State Historic Preservation Officer.

(e) Special communities or neighborhoods which are significant visitor destination areas.

(f) Areas that provide existing coastal housing or recreational opportunities for low- and moderate-income persons.

(g) Areas where divisions of land could substantially impair or restrict coastal access.

30118. "Special district" means any public agency, other than a local government as defined in this chapter, formed pursuant to general law or special act for the local performance of governmental or proprietary functions within limited boundaries. "Special district" includes, but is not limited to, a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area, formed for the purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefiting that area.

30118.5. "Special treatment area" means an identifiable and geographically bounded forested area within the coastal zone that constitute a significant habitat area, area of special scenic significance, and any land where logging activities could adversely effect public recreation area or the biological productivity of any wetland, estuary, or stream especially valuable because of its role in a coastal ecosystem.

30119. "State university or college" means the University of California and the California State University and Colleges.

30120. "Treatment works" shall have the same meaning as set forth in the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.) and any other federal act which amends or supplements the Federal Water Pollution Control Act.

30121. "Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

CHAPTER 3. COASTAL RESOURCES PLANNING AND MANAGEMENT POLICIES

Article 1. General

30200. Consistent with the basic goals set forth in Section 30001.5, and except as may be otherwise specifically provided in this division, the policies of this chapter shall constitute the standards by which the adequacy of local coastal programs, as provided in Chapter 6 (commencing with Section 30500), and, the permissibility of proposed developments subject to the provisions of this division are determined. All public agencies carrying out or supporting activities outside the coastal zone that could have a direct impact on resources within the coastal zone shall consider the effect of such actions on

4 1277 30 12 145 312

coastal zone resources in order to assure that these policies are achieved.

Article 2. Public Access

30210. In carrying out the requirement of Section 2 of Article XV of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

30211. Development shall not interfere with the public's right of access to the sea where acquired through use, custom, or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

30212. Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 2 of Article XV of the California Constitution.

30212.5. Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

30213. Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. New housing in the coastal zone shall be developed in conformity with the standards, policies, and goals of local housing elements adopted in accordance with the requirements of subdivision (c) of Section 65302 of the Government Code.

Article 3. Recreation

30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and

forseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

30222. The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

30224. Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Article 4. Marine Environment

30230. Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

30231. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

30232. Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

30233. (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible

mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland; provided, however, that in no event shall the size of the wetland area used for such boating facility, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, be greater than 25 percent of the total wetland area to be restored.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities.

(5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource-dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

30234. Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed

recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

30236. Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Article 5. Land Resources

30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

30241. The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses and where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(d) By assuring that public service and facility expansions and

nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(e) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b) of this section, and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

30242. All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

30243. The long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.

30244. Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Article 6. Development

30250. (a) New development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

(b) New hazardous industrial development shall be located away from existing developed areas.

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California

Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

30252. The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

30253. New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.

(4) Minimize energy consumption and vehicle miles traveled.

(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

30254. New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal-dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

30255. Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not

be sited in a wetland.

Article 7. Industrial Development

30260. Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

30261. (a) Multicompany use of existing and new tanker facilities shall be encouraged, except where to do so would result in increased tanker operations and associated onshore development incompatible with the land use and environmental goals for the area. New tanker terminals outside of existing terminal areas shall be sited sufficiently far offshore and so situated as to avoid risk to environmentally sensitive areas and shall use a monobuoy system, unless an alternative type of system can be shown to be environmentally preferable for a specific site. Tanker facilities shall be designed to (1) minimize the total volume of oil spilled, (2) minimize the risk of collision from movement of other vessels, (3) have ready access to the most effective feasible containment and recovery equipment for oilspills, and (4) have onshore deballasting facilities to receive any fouled ballast water from tankers where operationally required.

(b) Only one liquefied natural gas terminal shall be permitted in the coastal zone until engineering and operational practices can eliminate any significant risk to life due to accident or until guaranteed supplies of liquefied natural gas and distribution system dependence on liquefied natural gas are substantial enough that an interruption of service from a single liquefied natural gas facility would cause substantial public harm.

Until the risks inherent in liquefied natural gas terminal operations can be sufficiently identified and overcome and such terminals are found to be consistent with the health and safety of nearby human populations, terminals shall be built only at sites remote from human population concentrations. Other unrelated development in the vicinity of a liquefied natural gas terminal site which is remote from human population concentrations shall be prohibited. At such time as liquefied natural gas marine terminal operations are found consistent with public safety, terminal sites only in developed or industrialized port areas may be approved.

30262. Oil and gas development shall be permitted in accordance with Section 30260, if the following conditions are met:

4 1277 30 12 285 340

(a) The development is performed safely and consistent with the geologic conditions of the well site.

(b) New or expanded facilities related to such development are consolidated, to the maximum extent feasible and legally permissible, unless consolidation will have adverse environmental consequences and will not significantly reduce the number of producing wells, support facilities, or sites required to produce the reservoir economically and with minimal environmental impacts.

(c) Environmentally safe and feasible subsea completions are used when drilling platforms or islands would substantially degrade coastal visual qualities unless use of such structures will result in substantially less environmental risks.

(d) Platforms or islands will not be sited where a substantial hazard to vessel traffic might result from the facility or related operations, determined in consultation with the United States Coast Guard and the Army Corps of Engineers.

(e) Such development will not cause or contribute to subsidence hazards unless it is determined that repressuring operations will prevent damage from such subsidence.

(f) All oilfield brines are reinjected into oil-producing zones unless the Division of Oil and Gas of the Department of Conservation determines to do so would adversely affect production of the reservoirs and unless injection into other subsurface zones will reduce environmental risks and where adequate provision is made for the elimination of petroleum odors and water quality problems.

Monitoring programs to record land surface and near-shore ocean floor movements shall be initiated in locations of new large-scale fluid extraction on land or near shore before operations begin and shall continue until surface conditions have stabilized. Costs of monitoring and mitigation programs shall be borne by liquid and gas extraction operators.

30263. (a) New or expanded refineries or petrochemical facilities not otherwise consistent with the provisions of this division shall be permitted if (1) alternative locations are not feasible or are more environmentally damaging; (2) adverse environmental effects are mitigated to the maximum extent feasible; (3) it is found that not permitting such development would adversely affect the public welfare; (4) the facility is not located in a highly scenic or seismically hazardous area, on any of the Channel Islands, or within or near environmentally sensitive areas; and (5) the facility is sited so as to provide a sufficient buffer area to minimize adverse impacts on surrounding property.

(b) In addition to meeting all applicable air quality standards, new or expanded refineries or petrochemical facilities shall be permitted in areas designated as air quality maintenance areas by the State Air Resources Board and in areas where coastal resources would be adversely affected only if the negative impacts of the project upon air quality are offset by reductions in gaseous emissions in the area by the users of the fuels, or, in the case of an expansion

of an existing site, total site emission levels, and site levels for each emission type for which national or state ambient air quality standards have been established do not increase.

(c) New or expanded refineries or petrochemical facilities shall minimize the need for once-through cooling by using air cooling to the maximum extent feasible and by using treated waste waters from inplant processes where feasible.

30264. Notwithstanding any other provision of this division, except subdivisions (b) and (c) of Section 30413, new or expanded thermal electric generating plants may be constructed in the coastal zone if the proposed coastal site has been determined by the State Energy Resources Conservation and Development Commission to have greater relative merit pursuant to the provisions of Section 25516.1 than available alternative sites and related facilities for an applicant's service area which have been determined to be acceptable pursuant to the provisions of Section 25516.

CHAPTER 4. CREATION, MEMBERSHIP, AND POWERS OF COMMISSION AND REGIONAL COMMISSIONS

Article 1. Creation, Membership of Commission and Regional Commission

30300. There is in the Resources Agency the California Coastal Commission and, until not later than January 1, 1981, six regional coastal commissions.

30301. The commission shall consist of the following 15 members:

(a) The Secretary of the Resources Agency.

(b) The Secretary of the Business and Transportation Agency.

(c) The Chairperson of the State Lands Commission.

(d) Six representatives of the public, who shall not be members of any regional commission, from the state at large. The Governor, the Senate Rules Committee, and the Speaker of the Assembly shall each appoint two of such members.

(e) Six representatives from the regional commissions, selected by each regional commission from among its members. Within 60 days after the termination of any regional commission pursuant to Section 30305, the member on the commission shall be replaced by a county supervisor or city councilperson who shall reside within a coastal county of such region, to be appointed as follows:

(1) Upon the termination of the first regional commission, the Governor shall appoint the first member under this subdivision.

(2) Upon the termination of the second regional commission, the Senate Rules Committee shall appoint the second member under this subdivision.

(3) Upon the termination of the third regional commission, the Speaker of the Assembly shall appoint the third member under this subdivision.

(4) Upon the termination of the fourth, fifth, and sixth regional

41277 30123 15 346

commissions, the process of appointment of the members of commissions under paragraphs (1), (2), and (3) of this subdivision shall be repeated in that order.

In any event, each regional commission's representative on the commission shall continue to serve until the new member has been appointed pursuant to this subdivision.

30301.2. (a) The appointments of the Governor, the Senate Rules Committee, and the Speaker of the Assembly shall be made in the following manner: Within 30 days after the termination of a regional commission, the boards of supervisors and city of each county within the region shall nominate a supervisor or council member from which the Governor, Senate Rules Committee or Speaker of the Assembly shall appoint a replacement. In regions composed of three counties, the boards of supervisors and the city selection committee in each county within the region shall each nominate one or more supervisors or council members. In regions composed of two counties, the boards of supervisors and the city selection committee in each county within the region shall each nominate no less than two supervisors and two council members. In regions composed of one county, the board of supervisor and city selection committee in the county shall nominate no less than three supervisors and three council members. Immediately upon selecting the nominees, the board of supervisors and city selection committee shall send the names of the nominees to either the Governor, the Senate Rules Committee, or the Speaker of the Assembly whoever will appoint the replacement.

(b) Within 30 days after receiving the names of the nominees pursuant to subdivision (a), the Governor, the Speaker of the Assembly, or the Senate Rules Committee, whoever will appoint the replacement, shall either appoint one of the nominees or notify the boards of supervisors and city selection committees within the region that none of the nominees are acceptable and request the boards of supervisors and city selection committees to make additional nominees. Within 60 days after receipt of a notice rejecting all the nominees, the boards of supervisors and city selection committees within the region shall nominate and send to the appointing authority additional nominees pursuant to subdivision (a). Upon receipt of the names of the nominees, the appointing authority shall appoint one of the nominees.

30301.5. (a) Members of the commission serving under subdivision (a), (b), or (c) of Section 30301 shall be nonvoting members and may appoint a designee to serve at his or her pleasure who shall have all the powers and duties of such member pursuant to this division.

(b) Any county supervisor or city councilperson appointed to the commission pursuant to subdivision (e) of Section 30301, may, subject to the confirmation of his or her appointing power, appoint an alternate member to represent him or her on the commission. The alternate shall serve at the pleasure of the county supervisor or

city councilperson who appointed him or her and shall have all the powers and duties of a member of the commission. Applicable provisions of Section 30314 shall apply to alternates appointed pursuant to this subdivision.

30302. The six regional commissions shall be constituted as follows:

(a) The North Coast Regional Commission for Del Norte, Humboldt, and Mendocino Counties shall consist of the following members:

(1) One supervisor and one city councilperson from each county.

(2) Six representatives of the public.

(b) The North Central Coast Regional Commission for Sonoma, Marin, and San Francisco Counties shall consist of the following members:

(1) One supervisor and one city councilperson from Sonoma County and Marin County.

(2) Two supervisors of the City and County of San Francisco.

(3) One delegate of the Association of Bay Area Governments.

(4) Seven representatives of the public.

(c) The Central Coast Regional Commission for San Mateo, Santa Cruz, and Monterey Counties shall consist of the following members:

(1) One supervisor and one city councilperson from each county.

(2) One delegate of the Association of Bay Area Governments.

(3) One delegate of the Association of Monterey Bay Area Governments.

(4) Eight representatives of the public.

(d) The South Central Coast Regional Commission for San Luis Obispo, Santa Barbara, and Ventura Counties shall consists of the following members:

(1) One supervisor and one city councilperson from each county.

(2) Six representatives of the public.

(e) The South Coast Regional Commission for Los Angeles and Orange Counties shall consist of the following members:

(1) One supervisor from each county.

(2) One city councilperson from the City of Los Angeles nominated by majority vote of such city council and appointed by the president of such city council.

(3) One city councilperson from Los Angeles County from a city other than Los Angeles.

(4) One city councilperson from Orange County.

(5) One delegate of the Southern California Association of Governments.

(6) Six representatives of the public.

(f) The San Diego Coast Regional Commission for San Diego County, shall consist of the following members:

(1) Two supervisors from San Diego County and two city councilpersons from San Diego County, at least one of whom shall be from a city which lies, in whole or in part, within the coastal zone.

(2) One city councilperson from the City of San Diego, selected

by the city council of such city.

(3) One member of the San Diego Comprehensive Planning Organization.

(4) Six representatives of the public.

30303. The members of the regional commissions shall be selected or appointed as follows:

(a) All supervisors, by the board of supervisors on which they sit.

(b) All city councilpersons, except under paragraph (2) of subdivision (e) and paragraph (2) of subdivision (f) of Section 30302, by the city selection committee of their respective counties.

(c) All delegates of regional agencies, by their respective agency.

(d) All members representing the public at large, equally by the Governor, the Senate Rules Committee, and the Speaker of the Assembly; provided, however, that the extra member under paragraph (4) of subdivision (b) of Section 30302 shall be appointed by the Governor and the extra members under paragraph (4) of subdivision (c) of Section 30302 shall be appointed one by the Senate Rules Committee and one by the Speaker of the Assembly, respectively.

30304. A member of a regional commission who is also a supervisor from a county or city and county with a population greater than 400,000 may, subject to confirmation by his or her appointing power, appoint an alternate member to represent him or her at any regional commission meeting. The alternate shall serve at the pleasure of the member who appointed him or her and shall have all the powers and duties as a member of the regional commission, except that the alternate shall only participate and vote in meetings in the absence of the member who appointed him or her.

An alternate shall not be eligible for appointment to the commission as a regional representative to the commission.

30305. Each regional commission shall terminate within 30 days after the last local coastal program required within its region pursuant to Chapter 6 (commencing with Section 30500) of this division has been certified and all implementing devices have become effective or January 1, 1981, whichever is the earlier date. Upon the termination of any regional commission, the commission shall succeed to any and all of such regional commission's obligations, powers, duties, responsibilities, benefits, or legal interests.

Article 2. Qualifications and Organization

30310. (a) It is the intent of the Legislature to provide, to the maximum extent possible, for a smooth transition and continuity between the coastal program established by the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000) and this division. Except with respect to appointments made pursuant to subdivision (e) of Section 30301, at least one-half of each of the commission and regional commission member appointments by the Governor, the Senate Rules Committee, and the Speaker of

the Assembly shall be persons who on November 30, 1976, were serving as members of the California Coastal Zone Conservation Commission or regional coastal zone conservation commissions established by the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000), unless such persons are not available for such appointment.

(b) In making their appointments pursuant to this division, the Governor, the Senate Rules Committee, and the Speaker of the Assembly shall make good faith efforts to assure that their appointments, as a whole, reflect, to the greatest extent feasible, the economic, social, and geographic diversity of the state.

30311. Notwithstanding any other provision of law, each member of the commission and each regional commission shall be appointed or selected on or before January 2, 1977.

30312. The terms of office of commission and regional commission members shall be as follows:

(a) Any person qualified for membership because he or she holds a specified office as a locally elected official shall serve at the pleasure of his or her selecting or appointing authority; provided, however, that such membership shall cease when his or her term of office as a locally elected official ceases.

(b) Any member appointed by the Governor, the Senate Rules Committee, or the Speaker of the Assembly shall serve for two years at the pleasure of their appointing power. Such members may be reappointed for succeeding two-year periods

(c) Members of the commission who are representatives of a regional commission shall serve on the commission at the pleasure of the regional commission.

30313. Vacancies that occur shall be filled within 30 days after the occurrence of the vacancy, and shall be filled in the same manner in which the vacating member was selected or appointed.

30314. Except as provided in this section, members or alternates of the commission or any regional commission shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for such expenses is not otherwise provided or payable by another public agency or agencies, and shall receive fifty dollars ($50) for each full day of attending meetings of the commission or of any regional commission. In addition, members or alternates of the commission shall receive twelve dollars and fifty cents ($12.50) for each hour actually spent in preparation for a commission meeting; provided, however, that for each meeting no more than eight hours of preparation time shall be compensated as provided herein.

An alternate shall be entitled to payment and reimbursement for the necessary expenses incurred in participating in regional commission or commission meetings; provided, however, that only the member or his or her alternate shall receive such payment and reimbursement, and if both the member and alternate prepare for,

in the case of alternates to the commission, attend, and participate in any portion of a regional commission or commission meeting, only the alternate shall be entitled to such payment and reimbursement.

30315. The commission and regional commission shall meet at least once a month at a place convenient to the public. All meetings of the commission and each regional commission shall be open to the public.

Unless otherwise specifically provided for in this division, a majority of the total appointed membership of the commission or of the regional commission, as the case may be, shall constitute a quorum and shall be necessary to approve any action required or permitted under this division.

30316. The commission and each regional commission shall elect a chairperson and vice chairperson from among its members.

30317. The headquarters of the commission shall be in a coastal county, but it may meet and may exercise any or all of its powers in any part of the state.

The commission shall designate the location of the headquarters for each regional commission within the region of such regional commission. After the termination of a regional commission pursuant to Section 30305, the commission may maintain regional offices, if it finds that accessibility to, and participation by, the public will be better served or that the provisions of this division can be implemented more efficiently through the maintenance of such offices.

30318. Nothing in this division shall preclude or prevent any member or employee of the commission or any regional commission who is also an employee of another public agency, a county supervisor or city councilperson, member of the Association of Bay Area Governments, member of the Association of Monterey Bay Area Governments, delegate to the Southern California Association of Governments, or member of the San Diego Comprehensive Planning Organization, and who has in such designated capacity voted or acted upon a particular matter, from voting or otherwise acting upon such matter as a member or employee of the commission or any regional commission, as the case may be. Nothing in this section shall exempt any such member or employee of the commission or any regional commission, from any other provision of this article.

Article 3. Powers and Duties

30330. The commission, unless specifically otherwise provided, shall have the primary responsibility for the implementation of the provisions of this division and is designated as the state coastal zone planning and management agency for any and all purposes, and may exercise any and all powers set forth in the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.) or any amendment thereto or any other federal act heretofore or hereafter enacted that

relates to the planning or management of the coastal zone.

In addition to any other authority, the commission may, except for a facility defined in Section 25110, grant or issue any certificate or statement required pursuant to any such federal law that an activity of any person, including any local, state, or federal agency, is in conformity with the provisions of this division.

30331. The commission is designated the successor in interest to all remaining obligations, powers, duties, responsibilities, benefits, and interests of any sort of the California Coastal Zone Conservation Commission and of the six regional coastal zone conservation commissions established by the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000).

30333. The commission may adopt rules and regulations to carry out the purposes and provisions of this division, and to govern procedures of the commission and regional commissions.

Each regional commission may adopt any regulation or take any action it deems reasonable and necessary to carry out the provisions of this division; provided, however, that no regulation adopted by a regional commission shall take effect until the commission has first reviewed such proposed regulation and found it consistent with this division.

Except as provided in Section 30501 and subdivision (a) of Section 30620, such rules and regulations shall be adopted in accordance with the Administrative Procedure Act (commencing with Section 11370 of the Government Code). Such rules and regulations shall be consistent with this division and other applicable law.

30334. The commission and each regional commission, subject to the approval of the commission, may do all of the following:

(a) Apply for and accept grants, appropriations, and contributions in any form.

(b) Contract for any private professional or governmental services, if such work or services cannot be satisfactorily performed by its employees.

(c) Sue and be sued. The Attorney General shall represent the commission and any regional commission in any litigation or proceeding before any court, board, or agency of the state or federal government.

30335. The commission and each regional commission shall appoint an executive director who shall be exempt from civil service and shall serve at the pleasure of his or her appointing power. The commission shall prescribe the duties and salaries of each executive director, and, consistent with applicable civil service laws, shall appoint and discharge any officer, house staff counsel, or employee of the commission or any regional commission as it deems necessary to carry out the provisions of this division.

30336. The commission and each regional commission shall, to the maximum extent feasible, assist local governments in exercising the planning and regulatory powers and responsibilities provided for by this division where the local government elects to exercise such

4 1277 30 12 430 369

powers and responsibilities and requests assistance from the commission or regional commissions, and shall cooperate with and assist other public agencies in carrying out this division. Similarly, every public agency, including regional and state agencies and local governments, shall cooperate with the commission and any regional commission and shall, to the extent their resources permit, provide any advice, assistance, or information the commission or regional commission may require to perform its duties and to more effectively exercise its authority.

30337. The commission shall, where feasible, and in cooperation with the affected agency, establish a joint development permit application system and public hearing procedures with permit issuing agencies.

30338. By May 1, 1977, the commission, after full consultation with the State Water Resources Control Board, shall adopt regulations for the timing of its review of proposed treatment works pursuant to the provisions of subdivision (c) of Section 30412.

30339. The commission and each regional commission shall:

(a) Ensure full and adequate participation by all interested groups and the public at large in the commission's and each regional commission's work program.

(b) Ensure that timely and complete notice of commission and regional commission meetings and public hearings is disseminated to all interested groups and the public at large.

(c) Advise all interested group and the public at large as to effective ways of participating in commission and regional commission proceedings.

(d) Recommend to any local government preparing or implementing a local coastal program and to any state agency that is carrying out duties or responsibilities pursuant to the provisions of this division, and additional measures to assure open consideration and more effective public participation in such programs or activities.

30340. The commission shall be responsible for the management and budgeting of any and all funds that may be appropriated, allocated, granted, or in any other way made available to the commission or any regional commission for expenditure.

30341. The commission or any regional commission, with the commission's approval, may prepare and adopt any additional plans and maps and undertake any studies it deems necessary and appropriate to better accomplish the purposes, goals, and policies of this division; provided, however, that such plans and maps shall only be adopted after public hearing.

30342. The commission shall evaluate progress being made toward implementation of the provisions of this division and shall submit a report to the Governor and Legislature on January 1st of every other year, commencing on January 1, 1979.

CHAPTER 5. STATE AGENCIES

Article 1. General

30400. It is the intent of the Legislature to minimize duplication and conflicts among existing state agencies carrying out their regulatory duties and responsibilities.

30401. Except as otherwise specifically provided in this division, enactment of this division is not intended to change the authority of any existing state agency nor shall any provision of this division be a limitation on the power of any state agency to enforce or administer any provision of law which such agency is specifically authorized or required by statute or the Constitution of California to enforce or administer. This chapter shall not be construed to limit in any way, unless specifically otherwise provided in this chapter, the regulatory controls over development pursuant to Chapters 7 (commencing with Section 30600) and 8 (commencing with Section 30700).

30402. All state agencies shall carry out their duties and responsibilities in conformity with this division.

30403. It is the intent of the Legislature that the policies of this division and all local coastal programs prepared pursuant to Chapter 6 (commencing with Section 30500) should provide the common assumptions upon which state functional plans for the coastal zone are based in accordance with the provisions of Section 65036 of the Government Code.

30404. The commission shall submit to the State Energy Resources Conservation and Development Commission, and may submit to any state agency, recommendations designed to encourage such agency to carry out its statutory obligations in a manner that conforms with and implements this division. Such recommendations may include proposed changes in administrative regulations and proposed legislation. Each such state agency shall review and consider such recommendations and shall, within six months after receipt and in the event the recommendations are not implemented, report to the Governor and the Legislature its action and reasons therefor. Such report shall also include the agency's comment on any legislation which may have been proposed by the commission.

Article 2. State Agencies

30410. (a) The commission and the San Francisco Bay Conservation and Development Commission shall conduct a joint review of this division and Title 7.2 (commencing with Section 66600) of the Government Code to determine how the program administered by the San Francisco Bay Conservation and Development Commission shall be related to this division. Both commissions shall jointly present their recommendations to the Legislature not later than July 1, 1978.

4 1277 30 12 455 374

(b) It is the intent of the Legislature that the ports under the jurisdiction of the San Francisco Bay Conservation and Development Commission, including the Ports of San Francisco, Oakland, Richmond, Redwood City, Encinal Terminals, and Benicia, should be treated no less favorably than the ports under the jurisdiction of the commission covered in Chapter 8 (commencing with Section 30700) under the terms of any legislation which is developed pursuant to such study.

30411. (a) The Department of Fish and Game and the Fish and Game Commission are the principal state agencies responsible for the establishment and control of wildlife and fishery management programs and neither the commission nor any regional commission shall establish or impose any controls with respect thereto that duplicate or exceed regulatory controls established by such agencies pursuant to specific statutory requirements or authorization.

(b) The Department of Fish and Game, in consultation with the commission and the Department of Navigation and Ocean Development, may study degraded wetlands and identify those which can most feasibly be restored in conjunction with development of a boating facility as provided in subdivision (a) of Section 30233. Any such study shall include consideration of all of the following:

(1) Whether the wetland is so severely degraded and its natural processes so substantially impaired that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities.

(2) Whether a substantial portion of the degraded wetland, but in no event less than 75 percent, can be restored and maintained as a highly productive wetland in conjunction with a boating facilities project.

(3) Whether restoration of the wetland's natural values, including its biological productivity and wildlife habitat features, can most feasibly be achieved and maintained in conjunction with a boating facility or whether there are other feasible ways to achieve such values.

30412. (a) In addition to the provisions set forth in Section 13142.5 of the Water Code, the provisions of this section shall apply to the commission and the State Water Resources Control Board and the California regional water quality control boards.

(b) The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The commission shall assure that proposed development and local coastal programs shall not frustrate the provisions of this section. Neither the commission nor any regional commission shall, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any

determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.

Except as provided in this section, nothing herein shall be interpreted in any way either as prohibiting or limiting the commission, regional commission, local government, or port governing body from exercising the regulatory controls over development pursuant to this division in a manner necessary to carry out the provisions of this division.

(c) Any development within the coastal zone or outside the coastal zone which provides service to any area within the coastal zone that constitutes a treatment work shall be reviewed by the commission and any permit it issues, if any, shall be determinative only with respect to the following aspects of such development:

(1) The siting and visual appearance of treatment works within the coastal zone.

(2) The geographic limits of service areas within the coastal zone which are to be served by particular treatment works and the timing of the use of capacity of treatment works for such service areas to allow for phasing of development and use of facilities consistent with this division.

(3) Development projections which determine the sizing of treatment works for providing service within the coastal zone.

The commission shall determine whether the treatment works complies with the provisions of this division and shall make its final determination on a permit application for a treatment work prior to the final approval by the State Water Resources Control Board for the funding of such treatment works. Except as specifically provided in this subdivision, the decisions of the State Water Resources Control Board relative to the construction of treatment works shall be final and binding upon the commission and any regional commission.

(d) The commission shall provide or require reservations of sites for the construction of treatment works and points of discharge within the coastal zone adequate for the protection of coastal resources consistent with the provisions of this division.

(e) Nothing in this section shall require the State Water Resources Control Board to fund or certify for funding, any specific treatment works within the coastal zone or to prohibit the State Water Resources Control Board or any California regional water quality control board from requiring a higher degree of treatment at any existing treatment works.

30413. (a) In addition to the provisions set forth in subdivision (f) of Section 30241, and in Sections 25302, 25500, 25507, 25508, 25514, 25516.1, 25519, 25523, and 25526, the provisions of this section shall apply to the commission and the State Energy Resources Conservation and Development Commission with respect to matters within the statutory responsibility of the latter.

(b) The commission shall, prior to January 1, 1978, and after one

or more public hearings, designate those specific locations within the coastal zone where the location of a facility as defined in Section 25110 would prevent the achievement of the objectives of this division; provided, however, that specific locations that are presently used for such facilities and reasonable expansion thereof shall not be so designated. Each such designation shall include a description of the boundaries of such locations, the objectives of this division which would be so affected, and detailed findings concerning the significant adverse impacts that would result from development of a facility in the designated area. The commission shall consider the conclusions, if any, reached by the State Energy Resources Conservation and Development Commission in its most recently promulgated comprehensive report issues pursuant to Section 25309. The commission shall transmit a copy of its report prepared pursuant to this subdivision to the State Energy Resources Conservation and Development Commission.

(c) The commission shall every two years revise and update the designations specified in subdivision (b) of this section. The provisions of subdivision (b) of this section shall not apply to any sites and related facilities specified in any notice of intention to file an application for certification filed with the State Energy Resources Conservation and Development Commission pursuant to Section 25502 prior to designation of additional locations made by the commission pursuant to this subdivision.

(d) Whenever the State Energy Resources Conservation and Development Commission exercises its siting authority and undertakes proceedings pursuant to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 with respect to any thermal powerplant or transmission line to be located, in whole or in part, within the coastal zone, the commission shall participate in such proceedings and shall receive from the State Energy Resources Conservation and Development Commission any notice of intention to file an application for certification of a site and related facilities within the coastal zone. The commission shall analyze each notice of intent and shall, prior to completion of the preliminary report required by Section 25510, forward to the State Energy Resources Conservation and Development Commission a written report on the suitability of the proposed site and related facilities specified in such notice of intent. The commission's report shall contain a consideration of, and findings regarding, all of the following:

(1) The compatibility of the proposed site and related facilities with the goal of protecting coastal resources.

(2) The degree to which the proposed site and related facilities would conflict with other existing or planned coastal-dependent land uses at or near the site.

(3) The potential adverse effects that the proposed site and related facilities would have on aesthetic values.

(4) The potential adverse environmental effects on fish and wildlife and their habitats.

(5) The conformance of the proposed site and related facilities with certified local coastal programs in those jurisdictions which would be affected by any such development.

(6) The degree to which the proposed site and related facilities could reasonably be modified so as to mitigate potential adverse effects on coastal resources, minimize conflict with existing or planned coastal-dependent uses at or near the site, and promote the policies of this division.

(7) Such other matters as the commission deems appropriate and necessary to carry out the provisions of this division.

(e) The commission may, at its discretion, participate fully in other proceedings conducted by the State Energy Resources Conservation and Development Commission pursuant to its powerplant siting authority. In the event the commission participates in any public hearings held by the State Energy Resources Conservation and Development Commission, it shall be afforded full opportunity to present evidence and examine and cross-examine witnesses.

(f) The State Energy Resources Conservation and Development Commission shall forward a copy of all reports it distributes pursuant to Sections 25302 and 25306 to the commission and the commission shall, with respect to any report that relates to the coastal zone or coastal zone resources, comment on such reports, and shall in its comments include a discussion of the desirability of particular areas within the coastal zone as designated in such reports for potential powerplant development. The commission may propose alternate areas for powerplant development within the coastal zone and shall provide detailed findings to support the suggested alternatives.

30414. (a) The State Air Resources Board and local air pollution control districts established pursuant to state law and consistent with requirements of federal law are the principal public agencies responsible for the establishment of ambient air quality and emission standards and air pollution control programs. Neither the commission nor any regional commission shall modify any ambient air quality or emission standard established by the State Air Resources Board or any local air pollution control district in establishing ambient air quality or emission standards.

(b) The State Air Resources Board and any local air pollution control district may recommend ways in which actions of the commission or any regional commission can complement or assist in the implementation of established air quality programs.

30415. The Director of the Office of Planning and Research shall, in cooperation with the commission and other appropriate state agencies, review the policies of this division. If the director determines that effective implementation of any policy requires the cooperative and coordinated efforts of several state agencies, he shall recommend to the appropriate agencies actions that should be taken to minimize potential duplication and conflicts and which could, if taken, better achieve effective implementation of such policy. The

director shall, where appropriate and after consultation with the affected agency, recommend to the Governor and the Legislature how the programs, duties, and responsibilities of any state agency should be changed to better achieve the goals and policies of this division.

30416. (a) The State Lands Commission, in carrying out its duties and responsibilities as the state agency responsible for the management of all state lands, including tide and submerged lands,, in accordance with the provisions of Division 6 (commencing with Section 6001), shall, prior to certification by the commission pursuant to Chapters 6 (commencing with Section 30500) and 8 (commencing with Section 30700) review, and may comment on any proposed local coastal program or port master plan that could affect state lands.

(b) No power granted to any local government, port governing body, or special district, under this division, shall change the authority of the State Lands Commission over granted or ungranted lands within its jurisdiction or change the rights and duties of its lessees or permittees.

(c) Boundary settlements between the State Lands Commission and other parties and any exchanges of land in connection therewith shall not be a development within the meaning of this division.

(d) Nothing in this division shall amend or alter the terms and conditions in any legislative grant of lands, in trust, to any local government, port governing body, or special district; provided, however, that any development on such granted lands shall, in addition to the terms and conditions of such grant, be subject to the regulatory controls provided by Chapters 7 (commencing with Section 30600) and 8 (commencing with Section 30700).

30417. (a) In addition to the provisions set forth in Section 4551.5, the provisions of this section shall apply to the State Board of Forestry.

(b) Within 180 days after January 1, 1977, the commission shall identify special treatment areas within the coastal zone in order to assure that natural and scenic resources are adequately protected. The commission shall forward to the State Board of Forestry maps of the designated special treatment areas together with specific reasons for such designations and with recommendations designed to assist the State Board of Forestry in adopting rules and regulations which adequately protect the natural and scenic qualities of such special treatment areas.

30418. (a) Pursuant to Division 3 (commencing with Section 3000), the Division of Oil and Gas of the Department of Conservation is the principal state agency responsible for regulating the drilling, operation, maintenance, and abandonment of all oil, gas, and geothermal wells in the state. Neither the commission, regional commission, local government, port governing body, or special district shall establish or impose such regulatory controls that duplicate or exceed controls established by the Division of Oil and Gas pursuant to specific statutory requirements or authorization.

This section shall not be construed to limit in any way, except as specifically provided, the regulatory controls over oil and gas development pursuant to Chapters 7 (commencing with Section 30600) and 8 (commencing with Section 30700).

(b) The Division of Oil and Gas of the Department of Conservation shall cooperate with the commission by providing necessary data and technical expertise regarding proposed well operations within the coastal zone.

CHAPTER 6. IMPLEMENTATION

Article 1. Local Coastal Program

30500. (a) Each local government lying, in whole or in part, within the coastal zone shall prepare a local coastal program for that portion of the coastal zone within its jurisdiction. However, any such local government may request the commission to prepare a local coastal program, or a portion thereof for the local government; provided, such request is submitted to the commission, in writing, not later than July 1, 1977. Each local coastal program prepared pursuant to this chapter shall contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.

(b) Amendments to a local general plan for the purpose of developing a certified local coastal program shall not constitute an amendment of a general plan for purposes of Section 65361 of the Government Code.

(c) The precise content of each local coastal program shall be determined by the local government, consistent with Section 30501, in full consultation with the commission and an appropriate regional commission, and with full public participation.

30501. The commission shall, within 90 days after January 1, 1977, adopt, after public hearing, procedures for the preparation, submission, approval, appeal, certification, and amendment of any local coastal program, including, but not limited to, all of the following:

(a) A common methodology for the preparation of, and the determination of the scope of, the local coastal programs, taking into account the fact that local governments have differing needs and characteristics.

(b) A schedule for the processing of all local coastal programs and specific guidelines to be followed by each regional commission in establishing, within 30 days after the commission has adopted such guidelines, its own schedule for processing local coastal programs within its region; however, in no event shall a local coastal program that is prepared by a local government be required to be submitted to any regional commission prior to July 1, 1978, or later than January 1, 1980.

Local coastal programs or portions thereof, prepared by the

commission shall be completed not later than July 1, 1980, and certified not later than December 1, 1980.

(c) Recommended uses that are of more than local importance that should be considered in the preparation of local coastal programs. Such uses may be listed generally or the commission may, from time to time, recommend specific uses for consideration by any local government.

30502. (a) The commission, in consultation with affected local governments and the appropriate regional commissions, shall, not later than September 1, 1977, after public hearing, designate sensitive coastal resource areas within the coastal zone where the protection of coastal resources and public access requires, in addition to the review and approval of zoning ordinances, and the review and approval by the regional commissions and commission of other implementing actions.

(b) The designation of each sensitive coastal resource area shall be based upon a separate report prepared and adopted by the commission which shall contain all of the following:

(1) A description of the coastal resources to be protected and the reasons why the area has been designated as a sensitive coastal resource area.

(2) A specific determination that the designated area is of regional or statewide significance.

(3) A specific list of significant adverse impacts that could result from development where zoning regulations alone may not adequately protect coastal resources or access.

(4) A map of the area indicating its size and location.

(c) In sensitive coastal resource areas designated pursuant to this section, a local coastal program shall include the implementing actions adequate to protect the coastal resources enumerated in the findings of the sensitive coastal resource area report in conformity with the policies of this division.

30503. During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

30504. Special districts, which issue permits or otherwise grant approval for development or which conduct development activities that may affect coastal resources, shall submit their development plans to the affected local government pursuant to Section 65401 of the Government Code. Such plans shall be considered by the affected local government in the preparation of its local coastal program.

Article 2. Procedure for Preparation, Approval, and Certification of Local Coastal Programs

30510. Consistent with the provisions of this chapter, a proposed local coastal program may be submitted to a regional commission, if both of the following are met:

(a) It is submitted pursuant to a resolution adopted by the local government, after public hearing, that certifies the local coastal program is intended to be carried out in a manner fully in conformity with this division.

(b) It contains, in accordance with guidelines established by the commission, materials sufficient for a thorough and complete review.

30511. Local coastal programs shall be submitted in accordance with the schedule established pursuant to subdivision (b) of Section 30501. At the option of the local government, such program may be submitted and processed in any of the following ways:

(a) At one time, in which event the provisions of Section 30512 with respect to time limits, resubmission, approval, and certification shall apply; provided, however, that the zoning ordinances, zoning district maps, and, if required, other implementing actions included in the local coastal program shall be approved and certified pursuant to the standards of subdivisions (a) and (f) of Section 30513.

(b) In two phases, in which event, the land use plans shall be processed first pursuant to the provisions of Section 30512, and the zoning ordinances, zoning district maps, and, if required, other implementing actions, shall be processed thereafter pursuant to the provisions of Section 30513.

(c) In separate geographic units consisting of less than the local government's jurisdiction lying within the coastal zone, each submitted pursuant to subdivision (a) or (b); provided, that the commission finds that the area or areas proposed for separate review can be analyzed for the potential cumulative impacts of development on coastal resources and access independently of the remainder of the affected jurisdiction.

30512. (a) The land use plan of a proposed local coastal program shall be submitted to the regional commission. The regional commission shall, within 90 days after the submittal, after public hearing, either approve or disapprove, in whole or in part, the land use plan. If the proposed land use plan is not acted upon within the 90-day period, it shall be deemed approved by the regional commission.

(b) Where a land use plan is disapproved, in whole or in part, the regional commission shall provide a written explanation and may suggest ways in which to modify the disapproved provisions. A local government may revise a disapproved land use plan and resubmit the revised version to the regional commission or it may appeal either the disapproved portion or revised version thereof to the commission. Where the proposed land use plan is approved, in whole or in part, the land use plan or the approved portion thereof shall,

within 10 working days of such approval, be forwarded by the regional commission to the commission for certification.

(c) The commission shall, not less than 21 days nor more than 45 days after a land use plan has been submitted or appealed to it, determine by majority vote, after a public hearing, whether specific provisions of the land use plan raise a substantial issue as to conformity with the policies of Chapter 3 (commencing with Section 30200). If the commission finds no substantial issue, the decision of the regional commission shall be final, and in the case of regional commission approvals, the land use plan shall be deemed certified. If the commission determines a substantial issue is raised, it shall, following public hearing and within 60 days from receipt of the land use plan, either refuse certification or certify, in whole or in part, the land use plan.

(d) If the commission refuses certification, in whole or in part, it shall send a written explanation for such action to the appropriate local government and regional commission. A revised land use plan may be resubmitted directly to the commission for certification.

(e) A regional commission shall approve and the commission shall certify, or the commission shall approve and certify where there is no regional commission, a land use plan, or any amendments thereto, if such commission finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200) of this division.

30513. The local government shall submit to the regional commission and the commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions which are required pursuant to this chapter.

(a) If within 60 days after receipt of the zoning ordinances, zoning district maps, and other implementing actions, the regional commission, after public hearing, has not rejected the zoning ordinances, zoning district maps, or other implementing actions, they shall be deemed approved. A regional commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the regional commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection specifying the provisions of land use plan with which the rejected zoning ordinances do not conform or which it finds will not be adequately carried out together with its reasons for the action taken.

(b) The local government may revise and resubmit the rejected zoning ordinances, zoning district maps, or other implementing actions to the regional commission or it may, within 10 days after receipt of a notice of such rejection, appeal to the commission.

(c) Any aggrieved person may appeal to the commission within 10 working days after approval or rejection of the zoning ordinances, zoning district maps, or other implementing actions by a regional

41277 30126 15 406

commission or after the zoning ordinances, zoning district maps, or other implementing actions are deemed approved due to the failure of the regional commission to act.

(d) An appeal pursuant to subdivision (b) or (c) shall specify the action which is being appealed, the specific provision of the certified land use plan with which the zoning ordinances, zoning district maps, or other implementing actions either conform or do not conform or which will or will not be adequately carried out, and the appellant's reasons for such position. The commission, by majority vote of those present, may refuse to hear an appeal which it determines raises no substantial issue. If the commission refuses to hear an appeal, the action of the regional commission shall be final.

(e) In the absence of an appeal pursuant to subdivision (b) or (c), the commission, by a majority of those present, may, within 30 days after a zoning ordinance, zoning district map, or other implementing action has been approved by the regional commission, determine that a substantial issue is presented as to conformity with or adequacy to carry out the certified land use plan.

(f) If within 60 days after receipt of an appeal pursuant to subdivision (b) or (c) or within 30 days after a determination to review pursuant to subdivision (e), the commission, after public hearing, has not rejected the zoning ordinances, zoning district maps, or other implementing actions, such zoning ordinances, zoning district maps, or other implementing actions shall be deemed approved. The commission may only reject a zoning ordinance, zoning district map, or other implementing action on the grounds set forth in subdivision (a) and, if it does so, shall give written notice as provided in subdivision (a). The local government may revise and resubmit a rejected zoning ordinance, zoning district map, or other implementing action to the regional commission or directly to the commission in accordance with the provisions of this section.

30514. (a) A certified local coastal program and all local implementing ordinances, regulations, and other actions may be amended by the appropriate local government but no such amendment shall take effect until it has been certified by the commission.

(b) Any proposed amendment of a certified local coastal program shall be submitted to, and processed by, the appropriate regional commission and the commission, or the commission where there is no regional commission, in accordance with the provisions of Sections 30512 and 30513.

(c) The commission shall, by regulations, establish a procedure whereby proposed amendments to a certified local coastal program may be reviewed and designated by the executive director of the commission as being minor in nature. Proposed amendments that are designated as minor shall not be subject to the provisions of Sections 30512 and 30513 and shall take effect on the 10th working day after such designation. Amendments that allow changes in uses shall not be designated as minor.

4 1277 30 12 625 408

(d) For the purpose of this section, an "amendment of a certified local coastal program" includes, but is not limited to, any action by the local government which authorizes a use of a parcel of land other than that designated in the certified local coastal program as a permitted use of such parcel.

30515. Any person authorized to undertake a public works project or proposing an energy facility development may request any local government to amend its certified local coastal program, if the purpose of the proposed amendment is to meet public needs of an area greater than that included within such certified local coastal program that had not been anticipated by the person making the request at the time the local coastal program was before the commission for certification. If, after review, the local government determines that the amendment requested would be in conformity with the policies of this division, it may amend its certified local coastal program as provided in Section 30514.

If the local government does not amend its local coastal program, such person may file with the commission a request for amendment which shall set forth the reasons why the proposed amendment is necessary and how such amendment is in conformity with the policies of this division. The local government shall be provided an opportunity to set forth the reasons for its action. The commission may, after public hearing, approve and certify the proposed amendment if it finds, after a careful balancing of social, economic, and environmental effects, that to do otherwise would adversely affect the public welfare, that a public need of an area greater than that included within the certified local coastal program would be met, that there is no feasible, less environmentally damaging alternative way to meet such need, and that the proposed amendment is in conformity with the policies of this division.

30516. (a) Approval of a local coastal program shall not be withheld because of the inability of the local government to financially support or implement any policy or policies contained in this division; provided, however, that this shall not require the approval of a local coastal program allowing development not in conformity with the policies in Chapter 3 (commencing with Section 30200).

(b) Where a certified port master plan has been incorporated in a local coastal program in accordance with Section 30711 and the local coastal program is disapproved by the regional commission or the commission, such disapproval shall not apply to the certified port master plan.

30517. The commission or the regional commission may extend, for a period of not to exceed one year, except as provided for in Section 30518, any time limitation established by this chapter for good cause.

30518. If a local coastal program has not been certified and all implementing devices become effective on or before January 1, 1981, the commission may take any of the following actions, if it finds that,

in the absence of a certified local coastal program, any new development in the coastal zone would not be in conformity within the jurisdiction of the affected local government and would be inconsistent with the policies of this division:

(a) Prohibit or otherwise restrict, by regulation, the affected local government from issuing any permit or any type of entitlement for use for any development with the coastal zone, or any portion thereof, of such local government.

(b) By regulation, extend the permit requirements of Chapter 7 (commencing with Section 30600) by requiring a permit from the commission for any development within any area of the coastal zone under the jurisdiction of the affected local government.

30519. Except for appeals to the commission, as provided in Section 30603, after a local coastal program, or any portion thereof, has been certified and all implementing actions within the area affected have become effective, the development review authority provided for in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the regional commission or by the commission where there is no regional commission over any new development proposed within the area to which such certified local coastal program, or any portion thereof, applies and shall at that time be delegated to the local government that is implementing such local coastal program or any portion thereof.

(b) Subdivision (a) shall not apply to any development proposed or undertaken on any tidelands, submerged lands, or on public trust lands, whether filled or unfilled, lying within the coastal zone, nor shall it apply to any development proposed or undertaken within ports covered by Chapter 8 (commencing with Section 30700) or within any state university or college within the coastal zone; however, this section shall apply to any development proposed or undertaken by a port or harbor district or authority on lands or waters granted by the Legislature to a local government whose certified local coastal program includes the specific development plans for such district or authority.

30519.5. (a) The commission shall, from time to time, but at least once every five years after certification, review every certified local coastal program to determine whether such program is being effectively implemented in conformity with the policies of this division. If the commission determines that a certified local coastal program is not being carried out in conformity with any policy of this division it shall submit to the affected local government recommendations of corrective actions that should be taken. Such recommendations may include recommended amendments to the affected local government's local coastal program.

(b) Recommendations submitted pursuant to this section shall be reviewed by the affected local government and, if the recommended action is not taken, the local government shall, within one year of such submission, forward to the commission a report setting forth its reasons for not taking the recommended action. The commission

shall review such report and, where appropriate, report to the Legislature and recommend legislative action necessary to assure effective implementation of the relevant policy or policies of this division.

30520. If the application of any local coastal program or part thereof is prohibited or stayed by any court, the permit authority provided for in Chapter 7 (commencing with Section 30600) shall be reinstated in the regional commission or in the commission where there is no regional commission. The reinstated permit authority shall apply as to any development which would be affected by the prohibition or stay.

30521. The Legislature hereby finds and declares that the early review of a limited number of local coastal programs may provide valuable experience for future review and processing of local coastal programs and that in consideration of the early commitments made by the involved local governments, any local coastal program prepared for that portion of a local jurisdiction designated as a pilot project area by the California Coastal Zone Conservation Commission between August 31, 1976, and October 31, 1976, shall receive priority from the regional commission and the commission by being processed ahead of other local coastal programs pursuant to the provisions of this chapter. Any such pilot project may be reviewed and approved by the appropriate regional commission and the commission without being subject to the procedures required by Section 30501; provided, that the proposed local coastal program, or portion thereof, is in conformity with the policies of Chapter 3 (commencing with Section 30200), serves as a useful model for future review of local coastal programs, and the regional commission has commenced formal review of the land use phase of a local coastal program by June 1, 1977.

30522. Nothing in this chapter shall permit the commission to certify a local coastal program which provides for a lesser degree of environmental protection than that provided by the plans and policies of any state regulatory agency.

CHAPTER 7. DEVELOPMENT CONTROLS

Article 1. General Provisions

30600. (a) In addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, on or after January 1, 1977, any person wishing to perform or undertake any development in the coastal zone, other than a facility subject to the provisions of Section 25500, shall obtain a coastal development permit.

(b) Prior to certification of its local coastal program, a local government may, with respect to any development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620, and 30620.5, establish procedures for the

filing, processing, review, modification, approval, or denial of a coastal development permit. Such procedures may be incorporated and made a part of the procedures relating to any other appropriate land use development permit issued by the local government. A coastal development permit from a local government shall not be required by this subdivision for any development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled, or for any development by a public agency for which a local government permit is not otherwise required.

(c) If prior to certification of its local coastal program, a local government does not exercise the option provided in subdivision (b), or a development is not subject to the requirements of subdivision (b), a coastal development permit shall be obtained from a regional commission, the commission on appeal, or the commission where there is no regional commission.

(d) After certification of its local coastal program, a coastal development permit shall be obtained from the local government as provided for in Section 30519.

30601. Prior to certification of the local coastal program and, where applicable, in addition to a permit from local government pursuant to subdivision (b) of Section 30600, a coastal development permit shall be obtained from the regional commission, or the commission on appeal, or the commission where there is no regional commission, for any of the following:

(1) Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

(2) Developments not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Any development which constitutes a major public works project or a major energy facility.

30602. (a) Prior to certification of its local coastal program, any action taken by a local government on a coastal development permit application may be appealed by the executive director of the regional commission, any person, including the applicant, or any two members of the regional commission or the commission to the regional commission. Such action shall become final after the 20th working day after receipt of the notice required by subdivision (c) of Section 30620.5, unless an appeal is filed within that time.

(b) Any action taken by a regional commission on a coastal development permit application pursuant to this section or Section 30600, may be appealed to the commission, in accordance with the provisions of subdivision (a) of Section 30625. Such action shall become final after the 10th working day, unless an appeal is filed within that time.

30603. (a) After certification of its local coastal program, an

action taken by a local government on a coastal development permit application may be appealed to the commission for any of the following:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) of this subdivision located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or (2) of this subdivision located in a sensitive coastal resource area if the allegation on appeal is that the development is not in conformity with the implementing actions of the certified local coastal program.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

(b) The grounds for an appeal pursuant to paragraph (1) of subdivision (a) shall be limited to the following:

(1) The development fails to provide adequate physical access or public or private commercial use or interferes with such uses.

(2) The development fails to protect public views from any public road or from a recreational area to, and along, the coast.

(3) The development is not compatible with the established physical scale of the area.

(4) The development may significantly alter existing natural landforms.

(5) The development does not comply with shoreline erosion and geologic setback requirements.

(c) The standard of review for any development reviewed pursuant to subdivision (a) or (b) shall be in conformity with the implementing actions of the certified local coastal program.

Such action shall become final after the 10th working day, unless an appeal is filed within that time.

30604. (a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

(b) After certification of the local coastal program a coastal

41277 31190 429

development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program.

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

(d) Nothing in this division shall authorize the denial of a coastal development permit on grounds that a portion of the proposed development not within the coastal zone will have adverse environmental impacts outside the coastal zone; provided, however, that the portion of the proposed development within the coastal zone shall meet the requirements of this chapter.

30605. To promote greater efficiency for the planning of any public works or state university or college development projects and as an alternative to project-by-project review, plans for public works or state university or college long-range land use development plans may be submitted to the regional commission and the commission for review in the same manner prescribed for the review of local coastal programs as set forth in Chapter 6 (commencing with Section 30500). If any such plan for public works or state university or college development project is submitted prior to certification of the local coastal programs for the jurisdictions affected by the proposed public works, the commission shall certify whether such proposed plan is consistent with the provisions of Chapter 3 (commencing with Section 30200). The commission shall, by regulation, provide for the submission and distribution to the public, prior to public hearings on the plan, detailed environmental information sufficient to enable the commission to determine the consistency of the plans with the policies of this division. If any such plan for public works is submitted after the certification of local coastal programs, any such plan shall be approved by the commission only if it finds, after full consultation with the affected local governments, that the proposed plan for public works is in conformity with certified local coastal programs in jurisdictions affected by the proposed public works. Each state university or college shall coordinate and consult with local government in the preparation of long-range development plans so as to be consistent, to the fullest extent feasible, with the appropriate local coastal program. Where a plan for a public works or state university or college development project has been certified by the commission, any subsequent review by the commission of a specific project contained in such certified plan shall be limited to imposing conditions consistent with Sections 30607 and 30607.1. A certified long-range development plan may be amended by the state university or college, but no such amendment shall take effect until it has been certified by the commission. Any proposed amendment shall be submitted to, and processed by, the regional commission or

the commission in the same manner as prescribed for amendment of a local coastal program.

30606. Prior to the commencement of any development pursuant to Section 30605, the public agency proposing the public works project, or state university or college, shall notify the commission and other interested persons, organizations, and governmental agencies of the impending development and provide data to show that it is consistent with the certified public works plan or long-range development plan. No development shall take place within 30 working days after such notice.

30607. Any permit that is issued or any development or action approved on appeal, pursuant to this chapter, shall be subject to reasonable terms and conditions in order to ensure that such development or action will be in accordance with the provisions of this division.

30607.1. Where any dike and fill development is permitted in wetlands in conformity with this division, mitigation measures shall include, at a minimum, either acquisition of equivalent areas of equal or greater biological productivity or opening up equivalent areas to tidal action; provided, however, that if no appropriate restoration site is available, an in-lieu fee sufficient to provide an area of equivalent productive value or surface areas shall be dedicated to an appropriate public agency, or such replacement site shall be purchased before the dike or fill development may proceed. Such mitigation measures shall not be required for temporary or short-term fill or diking; provided, that a bond or other evidence of financial responsiblity is provided to assure that restoration will be accomplished in the shortest feasible time.

30608. (a) No person who has obtained a vested right in a development prior to the date on which this division is chaptered by the Secretary of State or who has obtained a permit from the California Coastal Zone Conservation Commission pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000) shall be required to secure approval for the development pursuant to this division; provided, however, that no substantial change may be made in any such development without prior approval having been obtained under this division.

(b) If construction of the exempted development has not in good faith been pursued within three years after a claim of exemption has been requested and approved by the regional commission, the commission on appeal, or the commission where there is no regional commission, the vested right shall be presumed to have been abandoned and the development shall be required to be approved in accordance with the provisions of this division.

30609. Where, prior to January 1, 1977, a permit was issued and expressly made subject to recorded terms and conditions that are not dedications of land or interests in land for the benefit of the public or a public agency pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000), the

owner of real property which is the subject of such permit may apply for modification or elimination of the recordation of such terms and conditions pursuant to the provisions of this division. Such application shall be made in the same manner as a permit application. In no event, however, shall such a modification or elimination of recordation result in the imposition of terms or conditions which are more restrictive than those imposed at the time of the initial grant of the permit.Unless modified or deleted pursuant to this section, any condition imposed on a permit issued pursuant to the former California Coastal Zone Conservation Act of 1972 (commencing with Section 27000) shall remain in full force and effect.

30610. Notwithstanding any provision in this division to the contrary, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

(a) Improvements to existing single-family residences; provided, however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained under this chapter.

(b) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.

(c) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained under this chapter.

(d) Any category of development, or any category of development within a specifically defined geographic area, that the commission, by regulation, after public hearing, and by two-thirds vote of its total authorized membership, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and that such exclusion will not impair the ability of local government to prepare a local coastal program.

(e) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided, that the commission may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

(f) Any development within an urban land area identified by the commission pursuant to this subdivision. Upon the request of the

local government within whose jurisdiction the urban land area is located, the commission, in consultation with the appropriate regional commission and after public hearing, shall exclude from the permit provisions of this chapter residential areas zoned and developed to a density of four or more dwelling units per acre on or before January 1, 1977, or a commercial or industrial area zoned and developed for such use on or before January 1, 1977, if it finds both of the following:

(1) Locally permitted development will be infilling or replacement and will be in conformity with the scale, size, and character of the surrounding community.

(2) There is no potential for significant adverse effects, either individually or cumulatively, on pubic access to the coast or on coastal resources from any locally permitted development; provided, however, that no area may be excluded unless more than 50 percent of the lots are built upon, to the same general density or intensity of use.

(g) Every exclusion granted under subdivisions (d) and (f) shall be subject to terms and conditions to assure that no significant change in density, height, or nature of uses will occur without further proceedings under this division. An order granting such exclusion may be revoked at any time by the commission, if the conditions of exclusion are violated. Tide and submerged land, beaches, and lots immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, and all lands and waters subject to the public trust shall not be excluded.

30611. When immediate action by a person or public agency performing a public service is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster, serious accident, or in other cases of emergency, the requirements of obtaining any permit under this division may be waived upon notification of the executive director of the commission of the type and location of the work within three days of the disaster or discovery of the danger, whichever occurs first. Nothing in this section authorizes permanent erection of structures valued at more than twenty-five thousand dollars ($25,000).

Article 2. Development Control Procedures

30620. (a) By January 30, 1977, the commission shall, consistent with the provisions of this chapter, prepare interim procedures for the submission, review, and appeal of coastal development permit applications and of claims of exemption. Such procedures shall include, but are not limited to, the following:

(1) Application and appeal forms.

(2) Reasonable provisions for notification to the regional commission, the commission, and other interested persons of any action taken by a local government pursuant to this chapter, in

sufficient detail to assure that a preliminary review of such action for conformity with the provisions of this chapter can be made.

(3) Interpretive guidelines designed to assist local governments, the regional commissions, the commission, and persons subject to the provisions of this chapter in determining how the policies of this division shall be applied in the coastal zone prior to certification of local coastal programs; provided however, that such guidelines shall not supersede, enlarge, or diminish the powers or authority of any regional commission, the commission, or any other public agency.

(b) Not later than May 1, 1977, the commission shall, after public hearing, adopt permanent procedures that include the components specified in subdivision (a) and shall transmit a copy of such procedures to each local government within the coastal zone and shall make them readily available to the public. The commission may thereafter, from time to time, and, except in cases of emergency, after public hearing, modify or adopt additional procedures or guidelines as it deems necessary to better carry out the provisions of this division.

(c) The commission may require a reasonable filing fee and the reimbursement of expenses for the processing by the regional commission or the commission of any application for a coastal development permit under this division. The funds received under this subdivision shall be expended by the commission only when appropriated by the Legislature.

30620.5. (a) A local government may exercise the option provided in subdivision (b) of Section 30600; provided it does so for the entire area of its jurisdiction within the coastal zone and after it establishes procedures for the issuance of coastal development permits. Such procedures shall incorporate, where applicable, the interpretive guidelines issued by the commission pursuant to Section 30620.

(b) If a local government elects to exercise the option provided in subdivision (b) of Section 30600, the local government shall, by resolution adopted by the governing body of such local government, notify the appropriate regional commission and the commission and shall take appropriate steps to assure that the public is properly notified of such action. The provisions of subdivision (b) of Section 30600 shall take effect and shall be exercised by the local government on the 10th working day after the date on which the resolution required by this subdivision is adopted.

(c) Every local government exercising the option provided in subdivision (b) of Section 30600, shall within five working days notify the appropriate regional commission and any person who, in writing, has requested such notification, in the manner prescribed by the commission pursuant to Section 30620, of any coastal development permit it issues.

(d) Within five working days of receipt of the notice required by subdivision (c), the executive director of the regional commission shall post, at a conspicuous location in the regional commission's

office, a description of the coastal development permit issued by the local government. Within 15 working days of receipt of such notice, the executive director shall, in the manner prescribed by the commission pursuant to subdivision (a) of Section 30620, provide notice of the locally issued coastal development permit to members of the regional commission, and the commission.

30620.6. The commission shall, not later than August 1, 1978, and after public hearing, adopt public notice and appeal procedures for the review of development projects appealable pursuant to Sections 30603 and 30715. The commission shall send copies of such procedures to every local government within the coastal zone and shall make them readily available to the public.

30621. The regional commission or the commission shall provide for a de novo public hearing on applications for coastal development permits and any appeals brought pursuant to this division and shall give to any affected person a written public notice of the nature of the proceeding and of the time and place of the public hearing. Notice shall also be given to any person who requests, in writing, such notification. A hearing on any coastal development permit application or an appeal shall be set no earlier than 21 days nor later than 42 days after the date on which the application or appeal is filed with the regional commission or the commission.

30622. A regional commission or the commission shall act upon the coastal development permit application or an appeal within 21 days after the conclusion of the hearing pursuant to Section 30621. Any action by a regional commission shall become final after the 10th working day, unless an appeal is filed with the commission within such time.

30623. If an appeal of any action on any development by any regional commission, any local government, or port governing body is filed with the regional commission or the commission, the operation and effect of such action shall be stayed pending a decision on appeal.

30624. The commission shall provide, by regulation, for the issuance of coastal development permits by the executive director of the commission or any regional commission without compliance with the procedures specified in this chapter in cases of emergency, other than an emergency provided for under Section 30611, or for improvements to any existing structure not in excess of twenty-five thousand dollars ($25,000), and any other developments not in excess of twenty thousand dollars ($20,000). Such permit for nonemergency development shall not be effective until after reasonable public notice and adequate time for the review of such issuance has been provided. If any two members of the regional commission or the commission so request, at the first meeting following the issuance of such permit, such issuance shall not be effective, and, instead, the application shall be set for a public hearing pursuant to the provisions of this chapter.

No monetary limitations shall be required for emergencies

covered by the provisions of this section.

30625. (a) Except as otherwise specifically provided in subdivision (a) of Section 30602, any appealable action on a coastal development permit or claim of exemption for any development by a local government or a regional commission or port governing body may be appealed to the commission by an applicant, any aggrieved person except in the case of denials by a regional commission, or any two members of the commission. The regional commission, with respect to appeals pursuant to subdivision (a) of Section 30602, or the commission may approve, modify, or deny such proposed development, and if no action is taken within the time limit specified in Sections 30621 and 30622, the decision of the regional commission, the local government, or port governing body, as the case may be, shall become final, unless the time limit in Section 30621 or 30622 is waived by the applicant.

For purposes of this division, failure by any regional commission to act within any time limit specified in this division shall constitute an "action taken".

(b) The regional commission with respect to appeals pursuant to subdivision (a) of Section 30602, or the commission shall hear an appeal unless it determines that the appeal raises no substantial issue, or it finds the following.

(1) With respect to appeals pursuant to subdivision (a) of Section 30602, that no significant question exists as to conformity with Chapter 3 (commencing with Section 30200).

(2) With respect to appeals to the commission after certification of a local coastal program, that no significant question exists as to conformity with the certified local coastal program.

(3) With respect to appeals to the commission after certification of a port master plan, that no significant question exists as to conformity with the certified port master plan.

(c) Decisions of the commission, where applicable, shall guide the regional commissions, local governments, or port governing bodies in their future actions under the provisions of this division.

30626. The commission may, by regulation, provide for the reconsideration of the terms and conditions of any coastal development permit granted by a regional commission or the commission solely for the purpose of correcting any information contained in such terms and conditions.

CHAPTER 8. PORTS

Article 1. Findings and General Provisions

30700. For purposes of this division, notwithstanding any other provisions of this division except as specifically stated in this chapter, this chapter shall govern those portions of the Ports of Hueneme, Long Beach, Los Angeles, and San Diego Unified Port District, located within the coastal zone excluding any wetland, estuary, or

existing recreation area indicated in Part IV of the coastal plan, are contained within this chapter.

30700.5. The definitions of Chapter 2 (commencing with Section 30100) and the provisions of Chapter 9 (commencing with Section 30800) and Section 30900 shall apply to this chapter.

30701. The Legislature finds and declares that:

(a) The ports of the State of California constitute one of the state's primary economic and coastal resources and are an essential element of the national maritime industry.

(b) The location of the commercial port districts within the State of California are well established, and for many years such areas have been devoted to transportation and commercial, industrial, and manufacturing uses consistent with federal, state, and local regulations. Coastal planning requires no change in the number or location of the established commercial port districts. Existing ports shall be encouraged to modernize and construct necessary facilities within their boundaries in order to minimize or eliminate the necessity for future dredging and filling to create new ports in new areas of the state.

Article 2. Policies

30702. For purposes of this division, the policies of the state with respect to providing for port-related developments consistent with coastal protection in the port areas to which this chapter applies, which require no commission permit after certification of a port master plan and which are not appealable to the commission after certification of a master plan, are set forth in this chapter.

30703. The California commercial fishing industry is important to the State of California; therefore, ports shall not eliminate or reduce existing commercial fishing harbor space, unless the demand for commercial fishing facilities no longer exists or adequate alternative space has been provided. Proposed recreational boating facilities within port areas shall, to the extent it is feasible to do so, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

30705. (a) Water areas may be diked, filled, or dredged when consistent with a certified port master plan only for the following:

(1) Such construction, deepening, widening, lengthening, or maintenance of ship channel approaches, ship channels, turning basins, berthing areas, and facilities as are required for the safety and the accommodation of commerce and vessels to be served by port facilities.

(2) New or expanded facilities or waterfront land for port-related facilities.

(3) New or expanded commercial fishing facilities or recreational boating facilities.

(4) Incidental public service purposes, including, but not limited to, burying cables or pipes or inspection of piers and maintenance of

existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in biologically sensitive areas.

(6) Restoration purposes or creation of new habitat areas.

(7) Nature study, mariculture, or similar resource-dependent activities.

(8) Minor fill for improving shoreline appearance or public access to the water.

(b) The design and location of new or expanded facilities shall, to the extent practicable, take advantage of existing water depths, water circulation, siltation patterns, and means available to reduce controllable sedimentation so as to diminish the need for future dredging.

(c) Dredging shall be planned, scheduled, and carried out to minimize disruption to fish and bird breeding and migrations, marine habitats, and water circulation. Bottom sediments or sediment elutriate shall be analyzed for toxicants prior to dredging or mining, and where water quality standards are met, dredge spoils may be deposited in open coastal water sites designated to minimize potential adverse impacts on marine organisms, or in confined coastal waters designated as fill sites by the master plan where such spoil can be isolated and contained, or in fill basins on upland sites. Dredge material shall not be transported from coastal waters into estuarine or fresh water areas for disposal.

30706. In addition to the other provisions of this chapter, the policies contained in this section shall govern filling seaward of the mean high tide line within the jurisdiction of ports:

(a) The water area to be filled shall be the minimum necessary to achieve the purpose of the fill.

(b) The nature, location, and extent of any fill, including the disposal of dredge spoils within an area designated for fill, shall minimize harmful effects to coastal resources, such as water quality, fish or wildlife resources, recreational resources, or sand transport systems, and shall minimize reductions of the volume, surface area, or circulation of water.

(c) The fill is constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters.

(d) The fill is consistent with navigational safety.

30707. New or expanded tanker terminals shall be designed and constructed to do all of the following:

(a) Minimize the total volume of oil spilled in normal operations and accidents.

(b) Minimize the risk of collision from movement of other vessels.

(c) Have ready access to the best available oilspill containment and recovery equipment.

(d) Have onshore deballasting facilities to receive any fouled ballast water from tankers where operationally required.

30708. All port-related developments shall be located, designed, and constructed so as to:

(a) Minimize substantial adverse environmental impacts.

(b) Minimize potential traffic conflicts between vessels.

(c) Give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities.

(d) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible.

(e) Encourage rail service to port areas and multicompany use of facilities.

Article 3. Implementation; Master Plan

30710. Within 90 days after January 1, 1977, the commission shall, after public hearing, adopt, certify, and file with each port governing body a map delineating the present legal geographical boundaries of each port's jurisdiction within the coastal zone. The commission shall, within such 90-day period, adopt and certify after public hearing, a map delineating boundaries of any wetland, estuary, or existing recreation area indicated in Part IV of the coastal plan within the geographical boundaries of each port.

30711. (a) A port master plan that carries out the provisions of this chapter shall be prepared and adopted by each port governing body, and for informational purposes, each city, county, or city and county which has a port within its jurisdiction shall incorporate the certified port master plan in its local coastal program. A port master plan shall include all of the following:

(1) The proposed uses of land and water areas, where known.

(2) The projected design and location of port land areas, water areas, berthing, and navigation ways and systems intended to serve commercial traffic within the area of jurisdiction of the port governing body.

(3) An estimate of the effect of development on habitat areas and the marine environment, a review of existing water quality, habitat areas, and quantitative and qualitative biological inventories, and proposals to minimize and mitigate any substantial adverse impact.

(4) Proposed projects listed as appealable in Section 30715 in sufficient detail to be able to determine their consistency with the policies of Chapter 3 (commencing with Section 30200) of this division.

(5) Provisions for adequate public hearings and public participation in port planning and development decisions.

(b) A port master plan shall contain information in sufficient detail to allow the commission to determine its adequacy and conformity with the applicable policies of this division.

30712. In the consideration and approval of a proposed port

master plan, the public, interested organizations, and governmental agencies shall be encouraged to submit relevant testimony, statements, and evidence which shall be considered by the port governing body. The port governing body shall publish notice of the completion of the draft master plan and submit a copy thereof to the commission and shall, upon request, provide copies to other interested persons, organizations, and governmental agencies. Thereafter, the port governing body shall hold a public hearing on the draft master plan not earlier than 30 days and not later than 90 days following the date the notice of completion was published.

30713. Ports having completed a master plan prior to January 1, 1977, shall submit a copy thereof to the commission and hold a public hearing in accordance with the provisions of Section 30712 for the purpose of reviewing such master plan for conformity with the applicable provisions of this division and, if necessary, adopting such changes as would conform such plan to the applicable provisions of this division. Notice of completion of a master plan shall not be filed prior to January 2, 1977.

30714. After public notice, hearing, and consideration of comments and testimony received pursuant to Sections 30712 and 30713, the port governing body shall adopt its master plan and submit it to the commission for certification in accordance with this chapter, within 90 days after the submittal, the commission, after public hearing, shall certify such plan or portion of a plan and reject any portion of a plan which is not certified. If the commission fails to take action within the 90-day period, the port master plan shall be deemed certified. The commission shall certify such plan or portion of a plan if the commission finds both of the following:

(a) The master plan or certified portions thereof conforms with and carries out the policies of this chapter.

(b) Where a master plan or certified portions thereof provide for any of the developments listed as appealable in Section 30715 of this chapter, such development or developments are in conformity with all of the policies of Chapter 3 (commencing with Section 30200) of this division.

30715. Until such time as a port master plan or any portion thereof has been certified, the commission and regional commissions shall permit developments within ports as provided for in Chapter 7 (commencing with Section 30600). After a port master plan or any portion thereof has been certified, the permit authority of the commission provided in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the regional commission or by the commission over any new development contained in such a certified plan or any portion thereof and shall at that time be delegated to the appropriate port governing body, except that approvals of any of the following categories of development by the port governing body may be appealed to the commission:

(a) Developments for the storage, transmission, and processing of liquefied natural gas and crude oil in such quantities as would have

a significant impact upon the oil and gas supply of the state or nation or both the state and nation. A development which has a significant impact shall be defined in the master plans.

(b) Waste water treatment facilities, except for such facilities which process waste water discharged incidental to normal port activities or by vessels.

(c) Roads or highways which are not principally for internal circulation within the port boundaries.

(d) Office and residential buildings not principally devoted to administration of activities within the port; hotels, motels, and shopping facilities not principally devoted to the sale of commercial goods utilized for water-oriented purposes; commercial fishing facilities; and recreational small craft marina related facilities.

(e) Oil refineries.

(f) Petrochemical production plants.

30715.5. No development within the area covered by the certified port master plan shall be approved by the port governing body unless it finds that the proposed development conforms with such certified plan.

30716. (a) A certified port master plan may be amended by the port governing body, but no such amendment shall take effect until it has been certified by the commission. Any proposed amendment shall be submitted to, and processed by, the commission in the same manner as provided for submission and certification of a port master plan.

(b) The commission shall, by regulation, establish a procedure whereby proposed amendments to a certified port master plan may be reviewed and designated by the executive director of the commission as being minor in nature and need not comply with Section 30714. Such amendments shall take effect on the 10th working day after the executive director designates such amendments as minor.

30717. The governing bodies of ports shall inform and advise the commission in the planning and design of appealable developments authorized under this chapter, and prior to commencement of any appealable development, the governing body of a port shall notify the commission and other interested persons, organizations, and governmental agencies of the approval of a proposed appealable development and indicate how it is consistent with the appropriate port master plan and this division. An approval of the appealable development by the port governing body pursuant to a certified port master plan shall become effective after the 10th working day after notification of its approval, unless an appeal is filed with the commission within that time. Appeals shall be filed and processed by the commission in the same manner as appeals from local government actions as set forth in Chapter 7 (commencing with Section 30600) of this division. No appealable development shall take place until the approval becomes effective.

30718. For developments approved by the commission in a

certified master plan, but not appealable under the provisions of this chapter, the port governing body shall forward all environmental impact reports and negative declarations prepared pursuant to the Environmental Quality Act of 1970 (commencing with Section 21000) or any environmental impact statements prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) to the commission in a timely manner for comment.

30719. Any development project or activity authorized or approved pursuant to the provisions of this chapter shall be deemed certified by the commission as being in conformity with the coastal zone management program insofar as any such certification is requested by any federal agency pursuant to the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), National Oceanic and Atmospheric Administration, and memoranda of understanding between the state and federal governments relative thereto.

30720. If the application of any port master plan or part thereof is prohibited or stayed by any court, the permit authority provided for in Chapter 7 (commencing with Section 30600) shall be reinstated in the regional commission or in the commission where there is no regional commission. The reinstated permit authority shall apply as to any development which would be affected by the prohibition or stay.

CHAPTER 9. JUDICIAL REVIEW, ENFORCEMENT, AND PENALTIES

Article 1. General Provisions

30800. The provisions of this chapter shall be in addition to any other remedies available at law.

30801. Any aggrieved person shall have a right to judicial review of any decision or action of the commission or a regional commission by filing a petition for a writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure, within 60 days after such decision or action has become final.

For purposes of this section and subdivision (c) of Section 30513 and Section 30625, an "aggrieved person" means any person who, in person or through a representative, appeared at a public hearing of the commission, regional commission, local government, or port governing body in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the commission, regional commission, local government, or port governing body of the nature of his concerns or who for good cause was unable to do either. "Aggrieved person" includes the applicant for a permit and, in the case of an approval of a local coastal program, the local government involved.

30802. Any person, including an applicant for a permit or the commission, aggrieved by the decision or action of a local government that is implementing a certified local coastal program

or certified port master plan, which decision or action may not be appealed to the commission, shall have a right to judicial review of such decision or action by filing a petition for writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 60 days after the decision or action has become final. The commission may intervene in any such proceeding upon a showing that the matter involves a question of the conformity of a proposed development with a certified local coastal program or certified port master plan or the validity of a local government action taken to implement a local coastal program or certified port master plan. Any local government or port governing body may request that the commission intervene. Notice of any such action against a local government or port governing body shall be filed with the commission within five working days of the filing of such action. When an action is brought challenging the validity of a local coastal program or certified port master plan, a preliminary showing shall be made prior to proceeding on the merits as to why such action should not have been brought pursuant to the provisions of Section 30801.

30803. Any person may maintain an action for declaratory and equitable relief to restrain any violation of this division. On a prima facie showing of a violation of this division, preliminary equitable relief shall be issued to restrain any further violation of this division. No bond shall be required for an action under this section.

30804. Any person may maintain an action to enforce the duties specifically imposed upon the commission, any regional commission, any governmental agency, any special district, or any local government by this division. No bond shall be required for an action under this section.

30805. Any person may maintain an action for the recovery of civil penalties provided for in Section 30820 or 30821.

30806. Any civil action under this division by, or against, a city, county, or city and county, the commission, regional commission, special district, or any other public agency shall, upon motion of either party, be transferred to a county or city and county not a party to the action or to a county or city and county other than that in which the city, special district, or any other public agency which is a party to the action is located.

Article 2. Penalties

30820. Any person who violates any provision of this division shall be subject to a civil fine of not to exceed ten thousand dollars ($10,000).

30821. In addition to any other penalties, any person who intentionally and knowingly performs any development in violation of this division shall be subject to a civil fine of not less than fifty dollars ($50) nor more than five thousand dollars ($5,000) per day for each day in which such violation occurs.

30822. Where a person has intentionally and knowingly violated any provision of this division, the commission may maintain an action, in addition to Section 30801, for exemplary damages and may recover an award, the size of which is left to the discretion of the court. In exercising its discretion, the court shall consider the amount of liability necessary to deter further violations.

30823. Any funds derived by the commission or regional commission under this article shall be expended for carrying out the provisions of this division, when appropriated by the Legislature.

CHAPTER 10. SEVERABILITY

30900. If any provision of this division or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the division which can be given effect without the invalid provision or application, and to this end the provisions of this division are severable.

SEC. 2. Section 4551.5 of the Public Resources Code is amended to read:

4551.5. Rules and regulations shall apply to the conduct of timber operations and shall include, but shall not be limited to, measures for fire prevention and control, for soil erosion control, for water quality and watershed control, for flood control, for stocking, for protection against timber operations which unnecessarily destroy young timber growth or timber productivity of the soil, for prevention and control of damage by forest insects, pests, and disease, for the protection of natural and scenic qualities in special treatment areas identified pursuant to subdivision (b) of Section 30417, and for the preparation of timber harvesting plans. In developing these rules, the board shall solicit and consider recommendations from the State Forester, recommendations from the Department of Fish and Game relating to the protection of fish and wildlife, recommendations from the State Water Resources Control Board and the California regional water quality control boards relating to water quality, recommendations from the State Air Resources Board and local air pollution control districts relating to air pollution control, and recommendations of the California Coastal Commission relating to the protection of natural and scenic coastal zone resources in special treatment areas.

SEC. 3. Section 25103 of the Public Resources Code is amended to read:

25103. "Coastal zone" means the "coastal zone" as defined in Section 30103.

SEC. 4. Section 25115 of the Public Resources Code is repealed.

SEC. 5. Section 25302 of the Public Resources Code is amended to read:

25302. Upon receipt of a report required under Section 25300 from an electric utility, the commission shall forward copies thereof to the Legislature, the Public Utilities Commission, the Secretary of

the Resources Agency, the Director of the Office of Planning and Research, the California Coastal Commission, and other concerned state and federal agencies. The report shall also be made available, at cost, to any person upon request. The commission shall also forward copies of the report to each city and county within the service area covered by the report, and shall request that the city and county review and comment on the report in relation to estimates of population growth and economic development, patterns of land use and open space, and conservation and other appropriate elements of the adopted city or county general plan. A copy of the report shall be maintained on file for public inspection in each county.

SEC. 6. Section 25500 of the Public Resources Code is amended to read:

25500. In accordance with the provisions of this division, the commission shall have the exclusive power to certify all sites and related facilities in the state, whether a new site and related facility or a change or addition to an existing facility. The issuance of a certificate by the commission shall be in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law, for such use of the site and related facilities, and shall supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law.

After the effective date of this division, no construction of any facility or modification of any existing facility shall be commenced without first obtaining certification for any such site and related facility by the commission, as prescribed in this division.

SEC. 7. Section 25507 of the Public Resources Code is amended to read:

25507. If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the coastal zone and, the commission shall transmit a copy of the notice to the California Coastal Commission. The California Coastal Commission shall analyze the notice and prepare the report and findings prescribed by subdivision (d) of Section 30413 prior to completion of the preliminary report required by Section 25510.

SEC. 8. Section 25508 of the Public Resources Code is amended to read:

25508. The commission shall cooperate with, and render advice to, the California Coastal Commission in studying applications for any site and related facility proposed to be located, in whole or in part, within the coastal zone, if requested by the California Coastal Commission. The California Coastal Commission may participate in public hearings on the notice and on the application for site and related facility certification as an interested party in such proceedings.

SEC. 9. Section 25514 of the Public Resources Code is amended to read:

25514. No later than 120 days after distribution of the preliminary report, a final report shall be prepared and distributed. The final report shall include, but not be limited to, all of the following:

(a) The findings and conclusions of the commission regarding the conformity of alternative sites and related facilities designated in the notice or presented at the informational hearing or hearings and reviewed by the commission with both of the following:

(1) The 10-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (b) of Section 25309, except as provided in Section 25514.5.

(2) The provisions of any state law or local or regional ordinance or regulation, including any long-range land use plans or guidelines adopted by the state or by any local or regional planning agency, which would be applicable but for the exclusive authority of the commission to certify sites and related facilities; and the standards adopted by the commission pursuant to Section 25216.3.

(b) Any findings and comments submitted by the California Coastal Commission pursuant to Section 25507 and subdivision (d) of Section 30413.

(c) The commission's findings on the acceptability and relative merit of each alternative siting proposal designated in the notice or presented at the hearings and reviewed by the commission. The specific findings of relative merit shall be made pursuant to the provisions of Sections 25502 to 25516, inclusive. In its findings on any alternative siting proposal, the commission may specify modification in the design, construction, location, or other conditions which will meet the standards, policies, and guidelines established by the commission.

(d) Any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from the commission's evaluation pursuant to subdivision (c) of Section 25512.

SEC. 10. Section 25516.1 is added to the Public Resources Code, to read:

25516.1. If a site and related facility found to be acceptable by the commission pursuant to Section 25516 is located in the coastal zone, no application for certification may be filed pursuant to Section 25519, unless the commission has determined pursuant to Section 25514, that such site and related facility have greater relative merit than available alternative sites and related facilities for an applicant's service area which have been determined to be acceptable by the commission pursuant to Section 25516.

SEC. 11. Section 25519 of the Public Resources Code is amended to read:

25519. (a) In order to obtain certification for a site and related facility, an application for certification of such site and related facility shall be filed with the commission. Such application shall be in a form prescribed by the commission and shall be filed with the commission no later than 18 months before any construction is to commence.

Such application shall be for a site and related facility which has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site which has been designated a potential multiple-facility site pursuant to Section 25514.5 and found to be acceptable pursuant to Sections 25516 and 25516.5. An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520.5. An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility which was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516.

(b) The commission, upon its own motion or in response to the request of any party, may require the applicant to submit any information, document, or data, in addition to the attachments required by subdivision (i), which it determines is reasonably necessary to make any decision on the application.

(c) Upon receipt of the application, the commission shall undertake studies and investigations necessary to comply with the environmental impact reporting procedures established pursuant to Section 21100. For purposes of preparation and approval of the environmental impact report on a proposed site and related facility, the commission shall be the lead agency as provided in Section 21165. Except as otherwise provided in Division 13 (commencing with Section 21000), the environmental impact report shall be completed within one year after receipt of the application.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the commission shall transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) Upon receipt of an application, the commission shall forward the application to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility. Such local agencies shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(f) Upon receipt of an application, the commission shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The commission shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities, and to the Attorney General.

(g) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

(h) For any proposed site and related facility requiring a certificate of public convenience and necessity, the commission shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. In the event the commission requires modification of the proposed facility, the commission shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of such modifications.

(i) The commission shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each such agency. The commission shall request any relevant laws, ordinances, or regulations which any such agency has promulgated or administered.

(j) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending.

SEC. 12. Section 25523 of the Public Resources Code is amended to read:

25523. The commission shall prepare a written decision after a public hearing or hearings on an application, which shall include all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety, and in the case of a site to be located in the coastal zone, to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provision proposed in the report would not be feasible.

(b) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to

correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(c) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(d) Findings regarding the conformity of the proposed facility with the 10-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (b) of Section 25309.

SEC. 13. Section 25526 of the Public Resources Code is amended to read:

25526. The commission shall not approve as a site for a facility any location designated by the California Coastal Commission pursuant to subdivision (b) of Section 30413, unless the California Coastal Commission first finds that such use is not inconsistent with the primary uses of such land and that there will be no substantial adverse environmental effects and the approval of any public agency having ownership or control of such land is obtained.

SEC. 14. Section 402.1 of the Revenue and Taxation Code is amended to read:

402.1. In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. Such restrictions shall include, but are not limited to: (a) zoning; (b) recorded contracts with governmental agencies other than those provided for in Section 422; (c) permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency; (d) development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code; (e) environmental constraints applied to the use of land pursuant to provisions of statutes.

There shall be a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.

Grounds for rebutting the presumption may include but are not necessarily limited to the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.

In assessing land where the presumption is unrebutted, the assessor shall not consider sales of otherwise comparable land not

similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.

In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable land not under restriction but upon which natural limitations have substantially the same effect as restrictions.

For the purposes of this section:

(a) "Comparable lands" are lands which are similar to the land being valued in respect to legally permissible uses and physical attributes.

(b) "Representative sales information" is information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.

It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction in order to ensure the accurate assessment of such land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 of the Revenue and Taxation Code is to avoid an assessment policy which, in the absence of special circumstances, considers uses for land which legally are not available to the owner and not contemplated by government, and that these sections are necessary to implement the public policy of encouraging and maintaining effective land use planning. Nothing in this statute shall be construed as requiring the assessment of any land at less than as required by Section 401 of this code or as prohibiting the use of representative comparable sales information on land under similar restrictions when such information is available.

SEC. 15. Section 13142.5 is added to the Water Code, to read:

13142.5. In addition to any other policies established pursuant to this division, the policies of the state with respect to water quality as it relates to the coastal marine environment are that:

(a) Waste water discharges shall be treated to protect present and future beneficial uses, and, where feasible, to restore past beneficial uses of the receiving waters. Highest priority shall be given to improving or eliminating discharges that adversely affect any of the following:

(1) Wetlands, estuaries, and other biologically sensitive sites.

(2) Areas important for water contact sports.

(3) Areas that produce shellfish for human consumption.

(4) Ocean areas subject to massive waste discharge.

Ocean chemistry and mixing processes, marine life conditions, other present or proposed outfalls in the vicinity, and relevant

aspects of areawide waste treatment management plans and programs, but not of convenience to the discharger, shall for the purposes of this section, be considered in determining the effects of such discharges. Toxic and hard-to-treat substances should be pretreated at the source if such substances would be incompatible with effective and economical treatment in municipal treatment plants.

(b) For each new or expanded coastal powerplant or other industrial installation using seawater for cooling, heating, or industrial processing, the best available site, design, technology, and mitigation measures feasible shall be used to minimize the intake and mortality of all forms of marine life.

(c) Where otherwise permitted, new warmed or cooled water discharges into coastal wetlands or into areas of special biological importance, including marine reserves and kelp beds, shall not significantly alter the overall ecological balance of the receiving area.

(d) Independent baseline studies of the existing marine system should be conducted in the area that could be affected by a new or expanded industrial facility using seawater in advance of the carrying out of the development.

(g) Adequately treated reclaimed water should, where feasible, be made available to supplement existing surface and underground supplies and to assist in meeting future water requirements of the coastal zone, and that consideration, in statewide programs of financial assistance for water pollution or water quality control, shall be given to providing optimum water reclamation and use of reclaimed water.

SEC. 16. There is no appropriation made by this act for the 1976–77 fiscal year pursuant to Section 2231 of the Revenue and Taxation Code. However, the Legislature acknowledges that there may be direct planning and administrative costs as set forth in Section 2207 of the Revenue and Taxation Code as a result of this act in the 1976–77 fiscal year, but that such costs are indeterminable at this time. It is the intent of the Legislature that such costs to local government shall be reimbursed by the state. If such state-mandated local costs result from the enactment of this act or from executive orders issued pursuant to this act in the 1976–77 fiscal year or subsequent years, reimbursement shall be provided pursuant to Section 2231 of the Revenue and Taxation Code in the annual state budget process, except that claims for such costs which may be incurred in the 1976–77 fiscal year shall be submitted to the State Controller by October 31, 1977.

If the Legislature fails to provide full funds for state-mandated local costs approved by the State Controller as costs qualified for reimbursement under Section 2231 of the Revenue and Taxation Code in the annual state budget process or in special legislation during the 1976–77 fiscal year and each subsequent year in which state-mandated local costs have been so approved, the dates specified for the submission of the local coastal program, the

implementation of a local coastal program, and the performance of any other duty required of local government or an executive order to be performed after January 1, 1977, under the provisions of Division 20 (commencing with Section 30000) of the Public Resources Code, shall be postponed by the number of years elapsing between the date the local coastal program implementing act or duty is to be performed and the year in which such funds are provided. In the event that state-mandated costs are not funded by the Legislature, the provisions of Section 30518 of the Public Resources Code shall not be affected, except that any local government whose costs are not funded may elect that the California Coastal Commission implement either subdivision (a) or (b) of Section 30518 of the Public Resources Code.

It is the policy of the state that a major portion of the funds, but in no event less than 50 percent, received by the state from the federal government for the period following July 1, 1977, pursuant to the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), shall be used for the development and implementation of local coastal programs.

Funds appropriated by the Legislature for the purpose of, and pursuant to, this section together with any federal funds legally available for such purposes, shall be deposited in a local government coastal planning assistance account in the General Fund. The commission shall review and analyze all claims submitted and shall submit to the State Controller its recommendation. The State Controller shall consider the report of the commission and review claims submitted by any local government pursuant to this section to determine whether such claimed planning and administrative costs are directly attributable to the operation of this act. Any such claimed costs found to be directly attributable to the operation of this act shall, when appropriated by the Legislature, be charged against and paid from the local government coastal planning assistance account.

SEC. 17. The coastal zone, as generally defined in Section 30103 of the Public Resources Code, shall include the land and water areas as shown on the attached map prepared by the California Coastal Zone Conservation Commission titled "California Coastal Zone" dated August 11, 1976, and on file with the Secretary of State.

CHAPTER 1331

An act to amend Sections 30008, 30108.5, 30115, 30211, 30250, 30261, 30262, 30263, 30300, 30301.2, 30305, 30330, 30334, 30401, 30404, 30412, 30415, 30502, 30603, 30608, 30610, 30702, 30707, and 30714, as added by Senate Bill No. 1277, of, to add Sections 30010, 30107.5, 30108.55, 30304.5, 30333.5, 30334.5, 30502.5, 30610.5 and 30807 to, and to repeal Section 30109.5, as added by Senate Bill No. 1277, of, the Public

Resources Code, and to amend Sections 16 and 17 of Senate Bill No. 1277, relating to the California coastal resources.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 29, 1976]

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

SECTION 1. Section 30008 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30008. This division shall constitute California's coastal zone management program within the coastal zone for purposes of the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.) and any other federal act heretofore or hereafter enacted or amended that relates to the planning or management of coastal zone resources; provided, however, that pursuant to the Federal Coastal Zone Management Act of 1972, excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the federal government, its officers or agents.

SEC. 2. Section 30010 is added to the Public Resources Code, to read:

30010. The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the regional commission, the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

SEC. 3. Section 30107.5 is added to the Public Resources Code, to read:

30107.5. "Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

SEC. 3.1. Section 30108.5 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30108.5. "Land use plan" means the relevant portions of a local government's general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions.

SEC. 3.2. Section 30108.55 is added to the Public Resources Code, to read:

30108.55. "Local coastal element" is that portion of a general plan applicable to the coastal zone which may be prepared by local

government pursuant to this division, or such additional elements of the local government's general plan prepared pursuant to subdivision (k) of Section 65303 of the Government Code, as such local government deems appropriate.

SEC. 4. Section 30109.5 of the Public Resources Code, as added by Senate Bill No. 1277, is repealed.

SEC. 5. Section 30115 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30115. "Sea" means the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks, and flood control and drainage channels. "Sea" does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, including any river, stream, tributary, creek, or flood control or drainage channel flowing directly or indirectly into such area.

SEC. 6. Section 30211 of the Public Resources Code, as added by Senate Bill No. 1277 is amended to read:

30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

SEC. 7. Section 30250 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30250. (a) New development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

SEC. 8. Section 30261 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30261. (a) Multicompany use of existing and new tanker facilities shall be encouraged to the maximum extent feasible and legally permissible, except where to do so would result in increased tanker operations and associated onshore development incompatible with the land use and environmental goals for the area. New tanker

terminals outside of existing terminal areas shall be situated as to avoid risk to environmentally sensitive areas and shall use a monobuoy system, unless an alternative type of system can be shown to be environmentally preferable for a specific site. Tanker facilities shall be designed to (1) minimize the total volume of oil spilled, (2) minimize the risk of collision from movement of other vessels, (3) have ready access to the most effective feasible containment and recovery equipment for oilspills, and (4) have onshore deballasting facilities to receive any fouled ballast water from tankers where operationally or legally required.

(b) Only one liquefied natural gas terminal shall be permitted in the coastal zone until engineering and operational practices can eliminate any significant risk to life due to accident or until guaranteed supplies of liquefied natural gas and distribution system dependence on liquefied natural gas are substantial enough that an interruption of service from a single liquefied natural gas facility would cause substantial public harm.

Until the risks inherent in liquefied natural gas terminal operations can be sufficiently identified and overcome and such terminals are found to be consistent with the health and safety of nearby human populations, terminals shall be built only at sites remote from human population concentrations. Other unrelated development in the vicinity of a liquefied natural gas terminal site which is remote from human population concentrations shall be prohibited. At such time as liquefied natural gas marine terminal operations are found consistent with public safety, terminal sites only in developed or industrialized port areas may be approved.

SEC. 9. Section 30262 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30262. Oil and gas development shall be permitted in accordance with Section 30260, if the following conditions are met:

(a) The development is performed safely and consistent with the geologic conditions of the well site.

(b) New or expanded facilities related to such development are consolidated, to the maximum extent feasible and legally permissible, unless consolidation will have adverse environmental consequences and will not significantly reduce the number of producing wells, support facilities, or sites required to produce the reservoir economically and with minimal environmental impacts.

(c) Environmentally safe and feasible subsea completions are used when drilling platforms or islands would substantially degrade coastal visual qualities unless use of such structures will result in substantially less environmental risks.

(d) Platforms or islands will not be sited where a substantial hazard to vessel traffic might result from the facility or related operations, determined in consultation with the United States Coast Guard and the Army Corps of Engineers.

(e) Such development will not cause or contribute to subsidence hazards unless it is determined that adequate measures will be

02948 286185 538

undertaken to prevent damage from such subsidence.

(f) With respect to new facilities, all oilfield brines are reinjected into oil-producing zones unless the Division of Oil and Gas of the Department of Conservation determines to do so would adversely affect production of the reservoirs and unless injection into other subsurface zones will reduce environmental risks. Exceptions to reinjections will be granted consistent with the Ocean Waters Discharge Plan of the State Water Resources Control Board and where adequate provision is made for the elimination of petroleum odors and water quality problems.

Where appropriate, monitoring programs to record land surface and near-shore ocean floor movements shall be initiated in locations of new large-scale fluid extraction on land or near shore before operations begin and shall continue until surface conditions have stabilized. Costs of monitoring and mitigation programs shall be borne by liquid and gas extraction operators.

SEC. 10. Section 30263 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30263. (a) New or expanded refineries or petrochemical facilities not otherwise consistent with the provisions of this division shall be permitted if (1) alternative locations are not feasible or are more environmentally damaging; (2) adverse environmental effects are mitigated to the maximum extent feasible; (3) it is found that not permitting such development would adversely affect the public welfare; (4) the facility is not located in a highly scenic or seismically hazardous area, on any of the Channel Islands, or within or contiguous to environmentally sensitive areas; and (5) the facility is sited so as to provide a sufficient buffer area to minimize adverse impacts on surrounding property.

(b) In addition to meeting all applicable air quality standards, new or expanded refineries or petrochemical facilities shall be permitted in areas designated as air quality maintenance areas by the State Air Resources Board and in areas where coastal resources would be adversely affected only if the negative impacts of the project upon air quality are offset by reductions in gaseous emissions in the area by the users of the fuels, or, in the case of an expansion of an existing site, total site emission levels, and site levels for each emission type for which national or state ambient air quality standards have been established do not increase.

(c) New or expanded refineries or petrochemical facilities shall minimize the need for once-through cooling by using air cooling to the maximum extent feasible and by using treated waste waters from inplant processes where feasible.

SEC. 10.5. Section 30300 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30300. There is in the Resources Agency the California Coastal Commission and, until not later than June 30, 1979, six regional coastal commissions.

SEC. 11. Section 30301.2 of the Public Resources Code, as added

by Senate Bill No. 1277, is amended to read:

30301.2. (a) The appointments of the Governor, the Senate Rules Committee, and the Speaker of the Assembly, pursuant to subdivision (e) of Section 30301, shall be made in the following manner: Within 30 days after the termination of a regional commission, the boards of supervisors and city selection committee of each county within the region shall nominate supervisors or council members from which the Governor, Senate Rules Committee or Speaker of the Assembly shall appoint a replacement. In regions composed of three counties, the boards of supervisors and the city selection committee in each county within the region shall each nominate one or more supervisors or council members. In regions composed of two counties, the boards of supervisors and the city selection committee in each county within the region shall each nominate no less than two supervisors and two council members. In regions composed of one county, the board of supervisor and city selection committee in the county shall nominate no less than three supervisors and three council members. Immediately upon selecting the nominees, the board of supervisors and city selection committee shall send the names of the nominees to either the Governor, the Senate Rules Committee, or the Speaker of the Assembly whoever will appoint the replacement.

(b) Within 30 days after receiving the names of the nominees pursuant to subdivision (a), the Governor, the Speaker of the Assembly, or the Senate Rules Committee, whoever will appoint the replacement, shall either appoint one of the nominees or notify the boards of supervisors and city selection committees within the region that none of the nominees are acceptable and request the boards of supervisors and city selection committees to make additional nominees. Within 60 days after receipt of a notice rejecting all the nominees, the boards of supervisors and city selection committees within the region shall nominate and send to the appointing authority additional nominees pursuant to subdivision (a). Upon receipt of the names of the nominees, the appointing authority shall appoint one of the nominees.

SEC. 12. Section 30304.5 is added to the Public Resources Code, to read:

30304.5. (a) The regional commission shall be established pursuant to the provisions of this chapter and shall, no later than January 11, 1977, select their representatives to the commission.

(b) A regional commission shall take no action, other than selecting a representative to the commission as provided in subdivision (a), and shall have no powers, duties or responsibilities pursuant to the provisions of this division unless and until the commission, pursuant to subdivision (c), has certified that the regional commission for any region is necessary to expedite the review of local coastal programs and coastal development permit applications pursuant to the provisions of this division.

(c) The commission shall review the anticipated workload

relative to the processing and review of local coastal programs and coastal development permits within each region of the coastal zone. If the commission determines that its workload and the anticipated workload within any region is of such magnitude that unreasonable delays will result unless the appropriate regional commission is authorized to review and process local coastal programs and coastal development permit applications, the commission shall, by majority vote of its appointed members, certify that such regional commission is necessary to carry out the provisions of this division. Upon certification by the commission pursuant to this subdivision, the appropriate regional commission shall assume all the powers, duties and responsibilities provided in this division.

(d) In the absence of a certification pursuant to subdivision (c), the commission shall, within any region of the coastal zone, assume all the powers, duties, and responsibilities of the regional commission as provided in this division. After certification pursuant to subdivision (c), the powers, duties and responsibilities of the commission and the appropriate regional commission shall be exercised in the manner provided in this division.

SEC. 13. Section 30305 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30305. Each regional commission shall terminate within 30 days after the last local coastal program required within its region pursuant to Chapter 6 (commencing with Section 30500) of this division has been certified and all implementing devices have become effective or June 30, 1979, whichever is the earlier date. Upon the termination of any regional commission, the commission shall succeed to any and all of such regional commission's obligations, powers, duties, responsibilities, benefits, or legal interests.

SEC. 14. Section 30330 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30330. The commission, unless specifically otherwise provided, shall have the primary responsibility for the implementation of the provisions of this division and is designated as the state coastal zone planning and management agency for any and all purposes, and may exercise any and all powers set forth in the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.) or any amendment thereto or any other federal act heretofore or hereafter enacted that relates to the planning or management of the coastal zone.

In addition to any other authority, the commission may, except for a facility defined in Section 25110, grant or issue any certificate or statement required pursuant to any such federal law that an activity of any person, including any local, state, or federal agency, is in conformity with the provisions of this division. With respect to any project outside the coastal zone that may have a substantial effect on the resources within the jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, and for which any certification is required pursuant to the

Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), such certification shall be issued by the Bay Conservation and Development Commission; provided however, the commission may review and submit comments for any such project which affects resources within the coastal zone.

SEC. 15. Section 30333.5 is added to the Public Resources Code, to read:

30333.5. Notwithstanding any other provision of this division, the commission may, by a majority vote of the appointed members, remove any local coastal program or any portion thereof, any coastal development permit application or appeal therefrom, from any regional commission for direct consideration and action by the commission where to do so would expedite the review of such local coastal program or coastal development permit application pursuant to this division. The commission shall make such removal where it finds that the regional commission is not processing the local coastal program or any portion thereof, a coastal development permit application, or appeal therefrom, in a reasonably expeditious and timely manner.

SEC. 15.1. Section 30334 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30334. The commission and each regional commission, subject to the approval of the commission, may do the following:

(a) Contract for any private professional or governmental services, if such work or services cannot be satisfactorily performed by its employees.

(b) Sue and be sued. The Attorney General shall represent the commission any any regional commission in any litigation or proceeding before any court, board, or agency of the state or federal government.

SEC. 15.2. Section 30334.5 is added to the Public Resources Code, to read:

30334.5. In addition to the authority granted by Section 30334, the commission may apply for and accept grants, appropriations, and contributions in any form.

SEC. 16. Section 30401 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30401. Except as otherwise specifically provided in this division, enactment of this division does not increase, decrease, duplicate or supersede the authority of any existing state agency.

This chapter shall not be construed to limit in any way the regulatory controls over development pursuant to Chapters 7 (commencing with Section 30600) and 8 (commencing with Section 30700), provided however, neither the commission nor any regional commission shall set standards or adopt regulations that duplicate regulatory controls established by any existing state agency pursuant to specific statutory requirements or authorization.

SEC. 17. Section 30404 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30404. The commission shall periodically, in the case of the State Energy Resources Conservation and Development Commission, the State Board of Forestry, the State Water Resources Control Board and the California regional water quality control boards, the State Air Resources Board and air pollution control districts, the Department of Fish and Game, the Department of Parks and Recreation, the Department of Navigation and Ocean Development, the Division of Mines and Geology, the Division of Oil and Gas, and the State Lands Commission, and may, with respect to any other state agency, submit recommendations designed to encourage it to carry out its functions in a manner consistent with this division. The recommendations may include proposed changes in administrative regulations, rules, and statutes.

Each such state agency shall review and consider such recommendations and shall, within six months after receipt and in the event the recommendations are not implemented, report to the Governor and the Legislature its action and reasons therefor. Such report shall also include the agency's comments on any legislation which may have been proposed by the commission.

SEC. 18. Section 30412 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30412. (a) In addition to the provisions set forth in Section 13142.5 of the Water Code, the provisions of this section shall apply to the commission and the State Water Resources Control Board and the California regional water quality control boards.

(b) The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The commission shall assure that proposed development and local coastal programs shall not frustrate the provisions of this section. Neither the commission nor any regional commission shall, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.

Except as provided in this section, nothing herein shall be interpreted in any way either as prohibiting or limiting the commission, regional commission, local government, or port governing body from exercising the regulatory controls over development pursuant to this division in a manner necessary to carry out the provisions of this division.

(c) Any development within the coastal zone or outside the coastal zone which provides service to any area within the coastal zone that constitutes a treatment work shall be reviewed by the commission and any permit it issues, if any, shall be determinative only with respect to the following aspects of such development:

(1) The siting and visual appearance of treatment works within the coastal zone.

(2) The geographic limits of service areas within the coastal zone which are to be served by particular treatment works and the timing of the use of capacity of treatment works for such service areas to allow for phasing of development and use of facilities consistent with this division.

(3) Development projections which determine the sizing of treatment works for providing service within the coastal zone.

The commission shall make these determinations in accordance with the policies of this division and shall make its final determination on a permit application for a treatment work prior to the final approval by the State Water Resources Control Board for the funding of such treatment works. Except as specifically provided in this subdivision, the decisions of the State Water Resources Control Board relative to the construction of treatment works shall be final and binding upon the commission and any regional commission.

(d) The commission shall provide or require reservations of sites for the construction of treatment works and points of discharge within the coastal zone adequate for the protection of coastal resources consistent with the provisions of this division.

(e) Nothing in this section shall require the State Water Resources Control Board to fund or certify for funding, any specific treatment works within the coastal zone or to prohibit the State Water Resources Control Board or any California regional water quality control board from requiring a higher degree of treatment at any existing treatment works.

SEC. 19. Section 30415 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30415. The Director of the Office of Planning and Research shall, in cooperation with the commission and other appropriate state agencies, review the policies of this division. If the director determines that effective implementation of any policy requires the cooperative and coordinated efforts of several state agencies, he shall, no later than July 1, 1978 and from time to time thereafter, recommend to the appropriate agencies actions that should be taken to minimize potential duplication and conflicts and which could, if taken, better achieve effective implementation of such policy. The director shall, where appropriate and after consultation with the affected agency, recommend to the Governor and the Legislature how the programs, duties, responsibilities, and enabling legislation of any state agency should be changed to better achieve the goals and policies of this division.

SEC. 20. Section 30502 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30502. (a) The commission, in consultation with affected local governments and the appropriate regional commissions, shall, not later than September 1, 1977, after public hearing, designate

02948 286310 563

sensitive coastal resource areas within the coastal zone where the protection of coastal resources and public access requires, in addition to the review and approval of zoning ordinances, the review and approval by the regional commissions and commission of other implementing actions.

(b) The designation of each sensitive coastal resource area shall be based upon a separate report prepared and adopted by the commission which shall contain all of the following:

(1) A description of the coastal resources to be protected and the reasons why the area has been designated as a sensitive coastal resource area.

(2) A specific determination that the designated area is of regional or statewide significance.

(3) A specific list of significant adverse impacts that could result from development where zoning regulations alone may not adequately protect coastal resources or access.

(4) A map of the area indicating its size and location.

(c) In sensitive coastal resource areas designated pursuant to this section, a local coastal program shall include the implementing actions adequate to protect the coastal resources enumerated in the findings of the sensitive coastal resource area report in conformity with the policies of this division.

SEC. 20.1. Section 30502.5 is added to the Public Resources Code, to read:

30502.5. The commission shall recommend to the Legislature for designation by concurrent resolution those sensitive coastal resource areas designated by the commission pursuant to Section 30502. Recommendation by the commission to the Legislature shall place the described area in the sensitive coastal resource area category for no more than two years, or a shorter period if the Legislature specifically rejects the recommendation. If two years pass and a recommended area has not been designated by concurrent resolution, it shall no longer be designated as a sensitive coastal resource area. Such a concurrent resolution may not be held in committee, but shall be reported from committee to the floor of each respective house with its recommendation within 60 days of referral to committee.

SEC. 21. Section 30603 of the Public Resources Code as added by Senate Bill No. 1277, is amended to read:

30603. (a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for any of the following:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) of this subdivision located on

tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or (2) of this subdivision located in a sensitive coastal resource area if the allegation on appeal is that the development is not in conformity with the implementing actions of the certified local coastal program.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

(b) The grounds for an appeal pursuant to paragraph (1) of subdivision (a) shall be limited to the following:

(1) The development fails to provide adequate physical access or public or private commercial use or interferes with such uses.

(2) The development fails to protect public views from any public road or from a recreational area to, and along, the coast.

(3) The development is not compatible with the established physical scale of the area.

(4) The development may significantly alter existing natural landforms.

(5) The development does not comply with shoreline erosion and geologic setback requirements.

(c) The standard of review for any development reviewed pursuant to subdivision (a) (3) shall be in conformity with the implementing actions of the certified local coastal program.

Such action shall become final after the 10th working day, unless an appeal is filed within that time.

SEC. 21.5. Section 30608 of the Public Resources Code, is amended to read:

30608. (a) No person who has obtained a vested right in a development prior to the effective date of this division or who has obtained a permit from the California Coastal Zone Conservation Commission pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000) shall be required to secure approval for the development pursuant to this division; provided, however, that no substantial change may be made in any such development without prior approval having been obtained under this division.

SEC. 22. Section 30610 the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30610. Notwithstanding any provision in this division to the contrary, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

(a) Improvements to existing single-family residences; provided,

however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained under this chapter.

(b) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.

(c) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained under this chapter.

(d) Any category of development, or any category of development within a specifically defined geographic area, that the commission, by regulation, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and that such exclusion will not impair the ability of local government to prepare a local coastal program.

(e) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided, that the commission may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

SEC. 23. Section 30610.5 is added to the Public Resources Code, to read:

30610.5. Urban land areas shall, pursuant to the provisions of this section, be excluded from the permit provisions of this chapter.

(a) Upon the request of a local government, an urban land area, as specifically identified by such local government, shall, after public hearing, be excluded by the commission from the permit provisions of this chapter where both of the following conditions are met:

(1) The area to be excluded is either a residential area zoned and developed to a density of four or more dwelling units per acre on or before January 1, 1977, or a commercial or industrial area zoned and developed for such use on or before January 1, 1977.

(2) The commission finds both of the following:

(i) Locally permitted development will be infilling or replacement and will be in conformity with the scale, size, and character of the surrounding community.

(ii) There is no potential for significant adverse effects, either individually or cumulatively, on public access to the coast or on coastal resources from any locally permitted development; provided,

however, that no area may be excluded unless more than 50 percent of the lots are built upon, to the same general density or intensity of use.

(b) Every exclusion granted under subdivision (a) of this section and subdivision (d) of Section 30610 shall be subject to terms and conditions to assure that no significant change in density, height, or nature of uses will occur without further proceedings under this division, and an order granting an exclusion under subdivision (d) of Section 30610, but not under subdivision (a) of this section may be revoked at any time by the commission, if the conditions of exclusion are violated. Tide and submerged land, beaches, and lots immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, and all lands and waters subject to the public trust shall not be excluded under either subdivision (a) of this section or subdivision (d) of Section 30610.

SEC. 24. Section 30702 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30702. For purposes of this division, the policies of the state with respect to providing for port-related developments consistent with coastal protection in the port areas to which this chapter applies, which require no commission permit after certification of a port master plan and which, except as provided in Section 30715, are not appealable to the commission after certification of a master plan, are set forth in this chapter.

SEC. 25. Section 30707 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30707. New or expanded tanker terminals shall be designed and constructed to do all of the following:

(a) Minimize the total volume of oil spilled.

(b) Minimize the risk of collision from movement of other vessels.

(c) Have ready access to the most effective feasible oilspill containment and recovery equipment.

(d) Have onshore deballasting facilities to receive any fouled ballast water from tankers where operationally or legally required.

SEC. 26. Section 30714 of the Public Resources Code, as added by Senate Bill No. 1277, is amended to read:

30714. After public notice, hearing, and consideration of comments and testimony received pursuant to Sections 30712 and 30713, the port governing body shall adopt its master plan and submit it to the commission for certification in accordance with this chapter. Within 90 days after the submittal, the commission, after public hearing, shall certify such plan or portion of a plan and reject any portion of a plan which is not certified. If the commission fails to take action within the 90-day period, the port master plan shall be deemed certified. The commission shall certify such plan or portion of a plan if the commission finds both of the following:

(a) The master plan or certified portions thereof conforms with and carries out the policies of this chapter.

(b) Where a master plan or certified portions thereof provide for any of the developments listed as appealable in Section 30715 of this chapter, such development or developments are in conformity with all of the policies of Chapter 3 (commencing with Section 30200) of this division.

SEC. 27. Section 30807 is added to the Public Resources Code, to read:

30807. Any person may maintain an action seeking an order to remove a local coastal program or any portion thereof, any coastal development permit application, or appeal therefrom, from the appropriate regional commission's consideration and to require that such local coastal program or any portion thereof, coastal development permit application or appeal therefrom, be reviewed and processed by the commission. The court may grant such order where to do so would better carry out the purposes of this division and where the court determines that such order would expedite the review of such local coastal program or any portion thereof, or of such coastal development permit application, or appeal therefrom.

SEC. 28. Section 16 of Senate Bill No. 1277 is amended to read:

SEC. 16. There is no appropriation made by this act for the 1976–77 fiscal year pursuant to Section 2231 of the Revenue and Taxation Code. However, the Legislature acknowledges that there may be direct planning and administrative costs as set forth in Section 2207 of the Revenue and Taxation Code as a result of this act in the 1976–77 fiscal year, but that such costs are indeterminable at this time. It is the intent of the Legislature that such costs to local government shall be reimbursed by the state. If such state-mandated local costs result from the enactment of this act or from executive orders issued pursuant to this act in the 1976–77 fiscal year or subsequent years, reimbursement shall be provided pursuant to Section 2231 of the Revenue and Taxation Code in the annual state budget process, except that claims for such costs which may be incurred in the 1976–77 fiscal year shall be submitted to the State Controller by October 31, 1977.

If the Legislature fails to provide full funds for state-mandated local costs approved by the State Controller as costs qualified for reimbursement under Section 2231 of the Revenue and Taxation Code in the annual state budget process or in special legislation during the 1976–77 fiscal year and each subsequent year in which state-mandated local costs have been so approved, the dates specified for the submission of the local coastal program, the implementation of a local coastal program, and the performance of any other duty required of local government or an executive order to be performed after January 1, 1977, under the provisions of Division 20 (commencing with Section 30000) of the Public Resources Code, shall be postponed by the number of years elapsing between the date the local coastal program implementing act or duty is to be performed and the year in which such funds are provided. In the event that state-mandated costs are not funded by

the Legislature, the provisions of Section 30518 of the Public Resources Code shall not be affected, except that any local government whose costs are not funded may elect that the California Coastal Commission implement either subdivision (a) or (b) of Section 30518 of the Public Resources Code.

It is the policy of the state that a major portion of the funds, but in no event less than 50 percent, received by the state from the federal government for the period following July 1, 1977, pursuant to the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), shall be used for the development and implementation of local coastal programs.

Funds appropriated by the Legislature for the purpose of, and pursuant to, this section together with no less than 50 percent of any federal funds legally available for such purposes, shall be deposited in a local government coastal planning assistance account in the General Fund. The commission shall review and analyze all claims submitted and shall submit to the State Controller its recommendation. The State Controller shall consider the report of the commission and review claims submitted by any local government pursuant to this section to determine whether such claimed planning and administrative costs are directly attributable to the operation of this act. Any such claimed costs found to be directly attributable to the operation of this act shall, when appropriated by the Legislature, be charged against and paid from the local government coastal planning assistance account.

SEC. 29. Section 17 of Senate Bill No. 1277 is amended to read:

SEC. 17. The coastal zone, as generally defined in Section 30103 of the Public Resources Code, shall include the land and water areas as shown on the map prepared by the California Coastal Zone Conservation Commission titled "California Coastal Zone" dated August 11, 1976, and on file with the Secretary of State.

SEC. 30. This act shall become effective only if Senate Bill No. 1277 is enacted by the Legislature at its 1975–76 Regular Session, and in such case, at the same time as Senate Bill No. 1277 takes effect.

SEC. 31. 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 1332

An act to repeal and add Chapter 1.75 (commencing with Section 5097.9) of Division 5 of the Public Resources Code, relating to Native Americans, and making an appropriation therefor.

[Approved by Governor September 29, 1976. Filed with

Secretary of State September 29, 1976]

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

SECTION 1. Chapter 1.75 (commencing with Section 5097.9) of Division 5 of the Public Resources Code is repealed.

SEC. 2. Chapter 1.75 (commencing with Section 5097.9) is added to Division 5 of the Public Resources Code, to read:

CHAPTER 1.75. NATIVE AMERICAN HISTORICAL, CULTURAL, AND SACRED SITES

5097.9. No public agency, and no private party using or occupying public property, or operating on public property, under a public license, permit, grant, lease, or contract made on or after July 1, 1977, shall in any manner whatsoever interfere with the free expression or exercise of Native American religion as provided in the United States Constitution and the California Constitution; nor shall any such agency or party cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require. The provisions of this chapter shall be enforced by the commission, pursuant to Sections 5097.94 and 5097.97.

The provisions of this chapter shall not be construed to limit the requirements of the Environmental Quality Act of 1970, Division 13 (commencing with Section 21000).

The public property of all cities, counties, and city and county located within the limits of the city, county, and city and county, except for all parklands in excess of 100 acres, shall be exempt from the provisions of this chapter. Nothing in this section shall, however, nullify protections for Indian cemeteries under other statutes.

5097.91. There is in state government a Native American Heritage Commission, consisting of nine members appointed by the Governor with the advice and consent of the Senate.

5097.92. At least five of the nine members shall be elders, traditional people, or spiritual leaders of California Native American tribes, nominated by Native American organizations, tribes, or groups within the state. The executive secretary of the commission shall be appointed by the Governor.

5097.93. The members of the commission shall serve without compensation but shall be reimbursed their actual and necessary expenses.

5097.94. The commission shall have the following powers and duties:

(a) To identify and catalog places of special religious or social significance to Native Americans.

(b) To make recommendations relative to Native American sacred places that are located on private lands, are inaccessible to

Native Americans, and have cultural significance to Native Americans for acquisition by the state or other public agencies for the purpose of facilitating or assuring access thereto by Native Americans.

(c) To make recommendations to the Legislature relative to procedures which will voluntarily encourage private property owners to preserve and protect sacred places in a natural state and to allow appropriate access to Native American religionists for ceremonial or spiritual activities.

(d) To appoint necessary clerical staff.

(e) To accept grants or donations, real or in kind, to carry out the purposes of this chapter.

(f) To make recommendations to the Director of Parks and Recreation and the California Arts Council relative to the California State Indian Museum and other Indian matters touched upon by department programs.

(g) To bring an action to prevent severe and irreparable damage to, or assure appropriate access for Native Americans to, a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, pursuant to Section 5097.97. If the court finds that severe and irreparable damage will occur or that appropriate access will be denied, and appropriate mitigation measures are not available, it shall issue an injunction, unless it finds, on clear and convincing evidence, that the public interest and necessity require otherwise. The Attorney General shall represent the commission and the state in litigation concerning affairs of the commission, unless the Attorney General has determined to represent the agency against whom the commission's action is directed, in which case the commission shall be authorized to employ other counsel. In any action to enforce the provisions of this subdivision the commission shall introduce evidence showing that such cemetery, place, site, or shrine has been historically regarded as a sacred or sanctified place by Native American people and represents a place of unique historical and cultural significance to an Indian tribe or community.

(h) To request and utilize the advice and service of all federal, state, local, and regional agencies.

(i) To assist Native Americans in obtaining appropriate access to sacred places that are located on public lands for ceremonial or spiritual activities.

(j) To assist state agencies in any negotiations with agencies of the federal government for the protection of Native American sacred places that are located on federal lands.

5097.95. Each state and local agency shall cooperate with the commission in carrying out its duties under this chapter. Such cooperation shall include, but is not limited to, transmitting copies, at the commission's expense, of appropriate sections of all environmental impact reports relating to property identified by the commission as of special religious significance to Native Americans

or which is reasonably foreseeable as such property.

5097.96. The commission may prepare an inventory of Native American sacred places that are located on public lands and shall review the current administrative and statutory protections accorded to such places. The commission shall submit a report to the Legislature no later than January 1, 1979, in which the commission shall report its findings as a result of these efforts and shall recommend such actions as the commission deems necessary to preserve these sacred places and to protect the free exercise of the Native American religions.

5097.97. In the event that any Native American organization, tribe, group, or individual advises the commission that a proposed action by a public agency may cause severe or irreparable damage to a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, or may bar appropriate access thereto by Native Americans, the commission shall conduct an investigation as to the effect of the proposed action. Where the commission finds, after a public hearing, that the proposed action would result in such damage or interference, the commission may recommend mitigation measures for consideration by the public agency proposing to take such action. If the public agency fails to accept the mitigation measures, and if the commission finds that the proposed action would do severe and irreparable damage to a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, the commission may ask the Attorney General to take appropriate legal action pursuant to subdivision (g) of Section 5097.94.

SEC. 3. The sum of thirty-three thousand dollars ($33,000) is appropriated from the General Fund to the Native American Heritage Commission for support of the commission.

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 1333

An act to amend Section 29536 of, to add Section 29532.4 to, to repeal Section 29537 of, and to repeal Title 7.7 (commencing with Section 67410) of, the Government Code, to amend Sections 30802 and 99233 of, to add Sections 99285, 99302.5, and 99304.5 to, to add Division 12 (commencing with Section 130000) to, to repeal Sections 30805 and 99285 of, and to repeal Article 2 (commencing with Section 30820), Article 3 (commencing with Section 30830), Article 4

(commencing with Section 30850), and Article 5 (commencing with Section 30870) of Chapter 6 of, and Article 1.5 (commencing with Section 30920) of Chapter 7 of, Part 3 of Division 10 of, the Public Utilities Code, to amend Section 7252 of, and to repeal Part 17 (commencing with Section 37001) of Division 2 of, the Revenue and Taxation Code, and to amend Section 199 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 29532.4 is added to the Government Code, to read:

29532.4. Notwithstanding subdivision (a) of Section 29532, the county transportation commission created in the Counties of Los Angeles, Orange, Riverside, and San Bernardino by Division 12 (commencing with Section 130000) of the Public Utilities Code shall not be designated by the Secretary of the Business and Transportation Agency as the transportation planning agency for the area under its jurisdiction.

SEC. 2. Section 29536 of the Government Code is amended to read:

29536. A county that is not included within the jurisdiction of a statutorily created regional transportation agency but for which there is a council of governments may, pursuant to this section, elect, with the concurrence of a majority of the cities which include at least 50 percent of the incorporated population within the county, to form a local transportation commission pursuant to Section 29535. Applications for funds may be allocated by the local transportation commission only if the council of governments has not objected to such application. For such counties with a population of 500,000 or more, as determined under Section 28020 of the Government Code, as now or hereafter amended, but excluding counties with more than 4,500 miles of maintained county roads, the members appointed by the mayor's select committee of the county from a city for which a transit service is provided and the members appointed by a transit district and the member representing other transit operators shall have no vote in the approval of the claims filed under Article 8 (commencing with Section 99400), Chapter 4, Part 11, Division 10 of the Public Utilities Code. For such counties with a population of less than 500,000, as determined under Section 28020 of the Government Code, as now and hereafter amended, and for counties with a population of 500,000 or more, as determined under Section 28020 of the Government Code, as now or hereafter amended, and with more than 4,500 miles of maintained county roads, the members appointed by the mayor's select committee of the county from a city for which all of the proportion of the total revenues placed by the county in the

local transportation fund that the city's population bears to the total of the county population is used to pay approved claims filed under Article 4 (commencing with Section 99260), Chapter 4, Part 11, Division 10 of the Public Utilities Code, and the members appointed by a transit district, and the member representing other transit operators shall have no vote in the approval of the claims filed under Article 8 (commencing with Section 99400), Chapter 4, Part 11, Division 10 of the Public Utilities Code.

Applications for funds shall be submitted to both the local transportation commission and the council of governments, which shall have 60 days after the receipt of applications to notify the local transportation commission and the county auditor of any objection. If neither the local transportation commission nor the county auditor receive notice of objection, the approval of the council of governments shall be presumed. Applications for funds to which the council of governments has objected shall not be paid by the county auditor until the objection has been removed.

SEC. 3. Section 29537 of the Government Code is repealed.

SEC. 4. Title 7.7 (commencing with Section 67410) of the Government Code is repealed.

SEC. 5. Section 30802 of the Public Utilities Code is amended to read:

30802. To the extent possible and subject to the priorities set forth in Section 30638, the principal of, interest on, and sinking fund payments for bonds of the district, including the establishment and maintenance of any reserve fund therefor, shall be paid from the revenues of the district. If from any cause the revenues of the district are, or are expected to be, inadequate in any year to pay the principal of, interest on, or sinking fund payments for bonds of the district as the same become due, or to establish or maintain any reserve fund therefor, the board shall, at the same time as the board of supervisors are required by law to fix the general tax levy and in the manner provided for such general tax levy, levy for district purposes and collect upon all property in the district taxable for county purposes a tax sufficient, together with revenues already collected and available therefor, to pay the interest on the bonds as the same will become due and such part of the principal thereof, including any sinking fund installments required by any of the district's agreements with its bondholders, as will come due before the proceeds of a tax levied at the next general tax levy will be available for such purpose, and sufficient to provide or to restore such reserve fund to the amount required by any of the district's agreements with its bondholders.

SEC. 6. Section 30805 of the Public Utilities Code is repealed.

SEC. 7. Article 2 (commencing with Section 30820) of Chapter 6 of Part 3 of Division 10 of the Public Utilities Code is repealed.

SEC. 8. Article 3 (commencing with Section 30830) of Chapter 6 of Part 3 of Division 10 of the Public Utilities Code is repealed.

SEC. 9. Article 4 (commencing with Section 30850) of Chapter

6 of Part 3 of Division 10 of the Public Utilities Code is repealed.

SEC. 10. Article 5 (commencing with Section 30870) of Chapter 6 of Part 3 of Division 10 of the Public Utilities Code is repealed.

SEC. 11. Article 1.5 (commencing with Section 30920) of Chapter 7 of Part 3 of Division 10 of the Public Utilities Code is repealed.

SEC. 12. Section 99233 of the Public Utilities Code, as amended by Chapter 294 of the Statutes of 1975, is amended to read:

99233. The fund shall be allocated by the designated transportation planning agency in accordance with the following priorities:

(a) First, there shall be allocated to the county such sums as are necessary for the county to administer this chapter.

(b) Thereafter there shall be allocated to the transportation planning agency such sums as are necessary to administer this chapter.

(c) Thereafter there shall be allocated to the transportation planning agency, if it is statutorily created, or is serving as the representative of California to an agency created by interstate compact, such sums as it may approve, up to 3 percent of annual revenues, for the conduct of the transportation planning and programming process, unless a greater amount is approved by the secretary. However, in those areas that have a county transportation commission created pursuant to Section 130050, up to 1 percent of annual revenues shall be allocated to the commissions in Los Angeles and Orange Counties and up to 2 percent of the annual revenues shall be allocated to the commissions in Riverside and San Bernardino Counties for the transportation planning and programming process. In addition, up to three-fourths of 1 percent of annual revenues shall be allocated to the multicounty designated transportation planning agency, as defined in Section 130004, for the transportation planning and programming process. No operator shall grant any funds it receives under this chapter to the designated multicounty transportation planning agency for the purposes of the agency carrying out its responsibilities under Division 12 (commencing with Section 130000).

(d) Thereafter allocations may be made to the council of governments pursuant to Section 99233.7.

(e) Thereafter allocations shall be made to the transit development board pursuant to Section 99233.8.

(f) Thereafter there shall be allocated to cities and counties such moneys as are approved by the transportation planning agency for claims presented pursuant to Section 99234.

(g) Thereafter there shall be allocated to operators such moneys as are approved by the transportation planning agency for claims presented pursuant to Article 4 (commencing with Section 99260) of this chapter.

(h) Thereafter there shall be allocated to cities and counties such moneys as are approved by the transportation planning agency for

claims presented pursuant to Article 8 (commencing with Section 99400) of this chapter.

SEC. 13. Section 99285 of the Public Utilities Code is repealed.

SEC. 14. Section 99285 is added to the Public Utilities Code, to read:

99285. (a) The county transportation commissions created pursuant to Division 12 (commencing with Section 130000) shall submit to the transportation planning agency those proposals to be funded, and the transportation planning agency shall approve only those claims submitted for such proposals.

(b) Each commission shall adopt appropriate criteria by which proposals shall be analyzed and evaluated, and shall approve only those proposals which will provide for a coordinated public transportation system consistent with the adopted transportation improvement program and adopted regional transportation plan and which will not result in undesirable duplication of public transportation services.

(c) In considering proposals, the Los Angeles County Transportation Commission shall consider, among other things, the public transit service mileage of each operator in the Southern California Rapid Transit District, but under no circumstances shall the included municipal operators receive less than 15 percent of the funds deposited in the fund attributable to the area within the transit district.

SEC. 15. Section 99302.5 is added to the Public Utilities Code, to read:

99302.5. Before the Orange County Transit District may expend any of its allocation it has retained for the development of rapid transit for purposes other than such development, the Orange County Transportation Commission shall make a determination that the funds are not required for any exclusive public mass transit guideway purpose within the foreseeable future.

SEC. 15.5. Section 99304.5 is added to the Public Utilities Code, to read:

99304.5. In those counties with county transportation commissions created pursuant to Division 12 (commencing with Section 130000), the transportation planning agency, for the last half of the 1976–77 fiscal year, shall allocate to the commissions their proportionate share of the fund pursuant to subdivision (c) of Section 99233.

SEC. 16. Division 12 (commencing with Section 130000) is added to the Public Utilities Code, to read:

0 1246 28 6565 614

DIVISION 12. COUNTY TRANSPORTATION COMMISSIONS

CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS

130000. This division shall be known and may be cited as the County Transportation Commissions Act.

130001. The Legislature hereby finds and declares that:

(a) Public demand for an efficient public transportation system in the southern California region resulting from population sprawl, the concentration of many transit dependent citizens in the large urban areas, and increasing mobility requirements indicates a need for improved, as well as more innovative, policy and decisionmaking institutions to resolve these problems.

(b) A basic purpose of transportation policy within the region should be to avoid undesirable duplication of transportation services, achieve the operation of a coordinated and integrated transportation system which will reduce automobile usage and dependency, reduce the consumption of scarce and expensive energy fuels, and reduce the levels of automobile-related air pollution.

(c) Recognizing the scarcity of resources available for all transportation development, the commissions shall give priority to low-cost highway and transit improvements, and shall work toward maximizing the effectiveness of existing resources available to the commissions.

(d) Recognizing the importance of the state highway system in the Los Angeles metropolitan area to bus, automobile, and freight transportation, it is necessary to maintain this highway system at least at its present operating standards and to increase the person-moving capability of this system by such methods as carpooling, improved traffic operations, exclusive busways, and fringe parking facilities.

(e) The transportation system should offer adequate public transportation to all citizens, including those immobilized by poverty, age, physical handicaps, or other reasons.

(f) The cities and local communities acting singly or jointly should be given more responsibilities for designing and providing local transit services to improve the responsiveness of public transit to public needs.

(g) The transportation decisionmaking process should be responsive to public values, and provide for the continuing involvement of the public in the preparation, revision, and discussion of transportation plans and services.

(h) Transportation planning should recognize that transportation systems have significant effect on the physical and socioeconomic characteristics of the areas served, and emphasis should be given to the protection and enhancement of the environment and the restoration of blighted neighborhoods near community centers. Los Angeles County, in particular, is a multicentered area with diverse socioeconomic levels and travel patterns, and a majority of the trips

01246 286585 618

in the county are four miles or less.

130002. As used in this division, "commission" means a county transportation commission created pursuant to Chapter 2 (commencing with Section 130050).

130003. As used in this division, "local transportation zones" means cities or unincorporated areas which contain at least one economic center or major trip generator in which there is a large percentage of short- and medium-length transit trips. Local transportation zones shall be coordinated with regional transit operations as appropriate relative to consumer need and efficient operations.

130004. As used in this division, "multicounty designated transportation planning agency" means the Southern California Association of Governments.

130005. The multicounty designated transportation planning agency shall conduct its meetings 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).

A majority of the members of the executive committee of the agency shall constitute a quorum for the transaction of business. All official acts of the executive committee shall require the affirmative vote of a majority of the members of the executive committee present, with not less than a quorum present.

CHAPTER 2. CREATION OF COMMISSIONS

130050. There is hereby created a commission in Los Angeles County, in Orange County, in Riverside County, and in San Bernardino County.

130051. The Los Angeles County Transportation Commission shall consist of 11 members appointed as follows:

(a) Five members of the Los Angeles County Board of Supervisors shall serve on the commission or the board may appoint, as an alternate member to a supervisor, a mayor or city councilman of any city, other than the City of Long Beach or Los Angeles, within Los Angeles County or a private individual who is a resident of the county.

(b) The Mayor of the City of Los Angeles or an alternate appointed by the mayor.

(c) Two members appointed by the Mayor, with the consent of the City Council, of the City of Los Angeles. If the mayor appoints a member of the city council, consent of the city council is not necessary.

(d) Two members appointed by the Los Angeles County City Selection Committee, excluding the members representing the Cities of Long Beach and Los Angeles.

(e) One member appointed by the City Council of the City of Long Beach, which member shall be a member of the city council.

130051.5. If the Mayor of the City of Los Angeles, or the Board of

01246 286595 620

Supervisors of the County of Los Angeles, appoint an alternate member to the Los Angeles County Transportation Commission, the alternate member shall act for, and in the interests of, his appointing authority. No alternate member shall serve on both the Board of Directors of the Southern California Rapid Transit District and the Los Angeles County Transportation Commission.

130052. The Orange County Transportation Commission shall consist of five members appointed as follows:

(a) Two members of the Orange County Board of Supervisors appointed by that board, one of whom shall serve on the Board of Directors of the Orange County Transit District.

(b) Two members appointed by the Orange County City Selection Committee, one of whom shall serve on the Board of Directors of the Orange County Transit District.

(c) One member appointed by the other four members of the commission, which member shall be a resident of Orange County who is not then serving, and has not within the last 10 years served, as an elected official of a city within the county, as an elected official of the county, or as a public member on the Board of Directors of the Orange County Transit District.

130053. The Riverside County Transportation Commission shall consist of seven members appointed as follows:

(a) Three supervisors appointed by the Riverside County Board of Supervisors, one of whom shall represent a supervisorial district in the eastern desert area of the county and two of whom shall represent supervisorial districts in the western urbanized area of the county.

(b) Two members appointed by the Riverside County City Selection Committee, excluding the member representing the City of Riverside, who shall be mayors or city councilmen serving within the county.

(c) One member appointed by the Mayor of the City of Riverside with the consent of the City Council of the City of Riverside, which member shall be either a member of the city council or the mayor.

(d) One citizen member appointed by the other six members of the commission, which member shall be an elected official in the county or a citizen who is not such an elected official but who is a resident of the county.

130053.5. (a) The appointing authority specified in subdivision (a), (b), or (c) may appoint an alternate member to the Riverside County Transportation Commission to represent, on a temporary basis, a regular member it has appointed, but only in those cases where the regular member cannot attend the meeting.

(b) An alternate member shall be:

(1) In the case of the Riverside County Board of Supervisors, another supervisor or mayor or city councilman serving within Riverside County.

(2) In the case of the Riverside County City Selection Committee, any mayor or city councilman serving within the county, excluding

the City of Riverside.

(3) In the case of the City of Riverside, the mayor, if not a member, or another member of the City Council of the City of Riverside.

(c) No alternate member shall serve as such for more than one of the above appointing authority or as a regular member of the commission at the same time.

130054. The San Bernardino County Transportation Commission shall be the San Bernardino Associated Governments, consisting of the following members:

(a) Five members of the San Bernardino County Board of Supervisors;

(b) One member from each of the incorporated cities of San Bernardino County, who shall be a mayor or a city councilman.

130055. The commissions shall merge with, or otherwise join, any statutorily created multifunctional regional government organization, if it has transportation planning and programming responsibilities as specified in Article 5 (commencing with Section 130300) of Chapter 4, within one year of creation of such an organization.

130056. The commissions shall rely to the maximum extent possible on existing state, regional, and local transportation planning and programming data and expertise, rather than on a large duplicative commission staff and set of plans.

The Legislature envisions the development of a small, but very capable, core staff able to provide the commissions with an objective analysis of the various options relative to plans and proposed projects of the regional and local transportation agencies and operators, and then translate those options into a short-range transportation improvement program to be developed and approved pursuant to subdivision (b) of Section 130303 in accordance with decisions made by the commissions.

130057. It is the intent of the Legislature that, after the development and approval of the short-range transportation improvement program pursuant to subdivision (b) of Section 130303, the transportation agencies responsible for the implementation of the program shall be granted discretion on how to best implement the program. Any changes made in the program by such an agency in its implementation shall be consistent with the purposes of the program, and the commission shall be immediately notified of such changes.

130058. It is the intent of the Legislature that, working through the multicounty designated transportation planning agency, the four commissions be encouraged to develop joint powers agreements or other contractual arrangements between themselves in the development of transportation facilities or for the provision of transportation services where the commissions feel such arrangements are in the public interest.

130059. The multicounty designated transportation planning

agency shall convene at least two meetings annually of the four commissions with representatives from the agency and the Department of Transportation for the following purposes:

(a) To review and discuss the near-term transportation improvement programs prior to comments by the agency and prior to adoption by the commissions.

(b) To review and discuss the regional transportation plan prior to adoption by the agency pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of the Government Code.

(c) To consider progress in the development of a regionwide and unified public transit system.

(d) To discuss and resolve any other matter of mutual concern.

130060. The Secretary of the Business and Transportation Agency shall convene the initial meeting of each commission at the county seat on or before January 31, 1977.

CHAPTER 3. ADMINISTRATION

130100. The commission 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 tempore, who, while so acting, shall have all of the authority of the chairman.

130101. The commission shall establish rules for its proceedings consistent with the law of the State of California.

130102. A majority of the members of the commission shall constitute a quorum for the transaction of business, and all official acts of the commission, except as otherwise provided in Section 130102.5, shall require the affirmative vote of a majority of the members of the commission.

130102.5. In the case of the San Bernardino County Transportation Commission, its official acts shall require the affirmative vote of a majority of the members representing the cities and a majority of the members of the board of supervisors if this is requested by either a majority of the members representing the cities or a majority of the members of the board of supervisors.

130103. The acts of the commission shall be expressed by motion, resolution, or ordinance.

130104. All meetings of the commission 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).

130105. The commission shall:

(a) Adopt an annual budget and fix the compensation of its officers and employees.

(b) Adopt an administrative code, by ordinance, which shall prescribe the powers and duties of commission officers, the method

of appointment of commission employees, and methods, procedures, and systems of operation and management of the commission.

(c) Cause a postaudit of the financial transactions and records of the commission to be made at least annually by a certified public accountant.

(d) Appoint, not later than July 1, 1977, a citizens' advisory committee, which membership shall reflect a broad spectrum of interests and all geographic areas of the county. Members of the staff of the commission, as determined by the commission, shall be available to aid the citizens' advisory committee in its work.

(e) Appoint a technical advisory committee of representatives from all of the transit operators, all of the cities and the county, and the Department of Transportation, and such other advisory committees it deems necessary.

(f) Do any and all things necessary to carry out the purposes of this division.

130106. 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.

130107. The commission shall appoint a full-time executive director who shall act for the commission under its direction.

The commission may appoint such officers as it deems necessary to carry out its duties and functions.

130108. Each member of a commission shall be compensated at the rate of fifty dollars ($50) for any day attending to the business of the commission, but not to exceed one hundred dollars ($100) in any month, and such necessary traveling and personal expenses incurred in the performance of his duties as authorized by the commission.

130109. The commission shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into such a contract, to include all of the employees of the commission into that retirement system, and the employees shall be entitled to the same health benefits as are state employees pursuant to Part 5 (commencing with Section 22751) of Division 5 of Title 2 of the Government Code.

CHAPTER 4. POWERS AND FUNCTIONS

Article 1. Corporate Powers

130200. The commission has perpetual succession and may adopt a seal and alter it at its pleasure.

130201. The commission may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

130202. All claims for money or damages against the commission

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

130220. The commission 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.

130221. The commission may contract with any department or agency of the United States of America, with any public agency (including, but not limited to, the Department of Transportation, the multicounty designated transportation planning agency, or any transit district, county, or city), or with any person upon such terms and conditions as the commission finds is in its best interest.

130222. 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 commission.

130223. If, after rejecting bids received under Section 130222, the commission 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 commission may proceed to purchase these supplies, equipment, or materials in the open market without further observance of the provisions regarding contracts, bids, or advertisements.

Article 3. Transportation Systems

130250. The commission shall coordinate the operation of all public transportation services within the county so as to achieve efficient operation thereof and shall resolve all jurisdictional disputes between public transit operators.

130251. It is the intent of the Legislature that, if, at the time the commission commences operation, an application to the federal government has been submitted, or substantial progress has been made in preparation of such an application, for funds to start the necessary work toward the construction of a transit guideway project, the commission shall give top priority to supporting such an effort so that the flow of federal funds shall not be impeded.

130252. (a) All plans proposed for the design, construction, and implementation of public mass transit systems or projects, including exclusive public mass transit guideway systems or projects, and federal-aid and state highway projects, shall be submitted to the

01246 28735 636

commission for approval. No such plan shall be approved unless it conforms to the appropriate adopted regional transportation plan pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of the Government Code.

(b) The commission shall have no approval authority with respect to projects on state highway routes determined by the State Transportation Board to be of statewide significance. The commission shall also have no approval authority over the projects, plans, and programs determined by the Department of Transportation to be necessary for the safety, operation, and maintenance of the state highway system. Such projects, plans, and programs shall be developed by the department and, to the extent feasible, be coordinated with the planning of the commission. Plans and programs involving significant rebuilding or rehabilitation of the state highway system, as determined by the department and the commission, shall be developed jointly by the department and the commission.

130253. Any plan for a transit system proposed to serve more than one county shall also be submitted for approval by the multicounty designated transportation planning agency. Action regarding such approval shall be taken within 60 working days after such a plan is submitted by the commission to the multicounty designated transportation planning agency.

130254. The commission shall designate the operator of any approved transit guideway system.

The Los Angeles County Transportation Commission shall designate the Southern California Rapid Transit District as the transit guideway operator in Los Angeles County.

The Orange County Transportation Commission shall designate the Orange County Transit District as the transit guideway operator in Orange County.

130255. (a) If an exclusive public mass transit guideway system is proposed to serve two or more counties, the commissions in those counties shall form a joint powers entity to conduct plan refinement studies, design, select the technology, determine the cost, locate the routes and access points, and supervise the construction, operation, and management of the system.

(b) The joint powers entity shall designate the operator of the guideway system.

(c) At least one year prior to letting a contract for the operation of the guideway system, the joint powers entity shall submit its plan and contract for such operation to the Legislature.

130256. The commission shall require all planning for guideway and rapid transit systems be coordinated with the Department of Transportation and the multicounty designated transportation planning agency.

130257. The commission may enter into an agreement with the Department of Transportation for the department to provide those services which are within the capabilities of the department to

effectively perform in connection with the development and construction of any approved exclusive public mass transit guideway system or rapid transit system.

The commission shall retain final authority to decide those matters for which it is responsible by law pertaining to the planning, design, construction, and operation of any exclusive public mass transit guideway system or rapid transit system.

The department shall perform such services agreed upon in accordance with the law and regulations that are applicable to the commission and the department.

130258. (a) If the Los Angeles County Transportation Commission is authorized to impose a transactions and use tax within the County of Los Angeles, the commission shall have such authority and power vested in the Southern California Rapid Transit District to plan, design, and construct an exclusive public mass transit guideway system in the county.

(b) In such a case, the commission shall conform to the State Contract Act (Chapter 3 (commencing with Section 14250), Part 5, Division 3, Title 2 of the Government Code) in letting contracts for such construction.

(c) If the Los Angeles County Transportation Commission is authorized to construct a transit guideway system, the commission shall closely coordinate the planning, design, and construction of the system with the Southern California Rapid Transit District, which shall serve as the designated operator of the system pursuant to Section 130254.

130259. (a) Not later than February 1, 1978, the commissions in Riverside County and San Bernardino County shall, and the commissions in Los Angeles County and Orange County may, in cooperation with the Department of Transportation, the multicounty designated transportation planning agency, public transit operators, the county, and the cities involved, establish local transportation zones and adopt guidelines for their establishment and operation.

(b) It is particularly important that the county, cities, and other local public entities be involved in establishing local transportation zones.

(c) In adopting the guidelines, the commission shall take into account, among other things, the geographical shape of proposed local transportation zones, economies of scale of transit systems, and established and projected subregional patterns of travel.

(d) The guidelines shall provide for a method of governing each local transportation zone; shall provide for the establishment of multicounty local transportation zones; and shall authorize each board, under specified conditions, to provide transit services itself, through joint powers agreement or any other cooperative arrangement, or by contract with a public transit operator or a private common carrier.

130260. The Orange County Transportation Commission may

establish local transportation zones only in those areas where the commission determines that the Orange County Transit District cannot otherwise provide adequate and responsive local transportation services in a cost-effective manner.

130261. The Los Angeles County Transportation Commission may establish local transportation zones only in those areas where the commission determines that the Southern California Rapid Transit District or the included municipal operator cannot otherwise provide adequate and responsive local transportation services in a cost-effective manner.

130262. The commission shall require full cooperation and coordination between the regional operator, the municipal operators, and the local transportation zones in such matters as schedules, routes, and exchange of transfers.

The commission shall ensure that regional operators, the municipal operators, and local transportation zones do not compete or unnecessarily duplicate services, but assist each other to provide the maximum level of transit service to the general public at the lowest possible cost.

130263. The Los Angeles County Transportation Commission shall not reduce, by order or by reducing funding, the size of the service areas under the jurisdiction of presently existing included municipal operators (as defined in Section 99207), the level of services they provide, or the scope of their operations, without first consulting with the municipal operators and securing the approval of the municipalities within which they operate.

Article 4. Los Angeles County Transportation Commission Report

130290. The Los Angeles County Transportation Commission shall review the present institutional structure of transit operations within the County of Los Angeles, the present method of allocating local, state, and federal funds for all transportation services, and the present levels of transit service provided within the county.

The commission shall prepare a report for submission to the Legislature containing such recommendations for changes and improvements in institutional arrangements, methods of funding, and methods and criteria for auditing the performance of transit operators to ensure that costs and revenues of each reflect maximum public benefits and levels of service, and on other matters as, in the opinion of the commission, may be necessary.

130291. The report shall address itself to, and contain recommendations for transportation solutions to, the achievement of the following objectives:

(a) The reduction of automobile congestion in and around the Los Angeles central business district and other heavily congested corridors and areas within the County of Los Angeles.

(b) An increase in the person-moving capability of existing

transportation facilities with minimum capital and operating costs to the public.

(c) The reduction of automobile travel within the county to conserve fuel and reduce automobile-related air pollution.

(d) Improvements in the level of transit service for the handicapped, the poor, the elderly, and other transit-dependent segments of the population.

(e) The upgrading and improvements of blighted sections of the urban area, with emphasis on restoring residential neighborhoods in close proximity to employment centers.

130292. A progress report shall be transmitted to the Legislature not later than July 1, 1977, and the final report containing all recommendations shall be transmitted to the Legislature not later than February 1, 1978.

The commission shall also provide in the final report information on the administration of the commission including, but not limited to, the operating budget, size and salaries of staff, consultant and other contractual expenses, and sources of funds being utilized.

130293. The final report shall specifically consider the full impact of Sections 99280, 99281, 99282, 99284, 99285, and 130263 on the development of a cost-effective, consumer oriented, and coordinated system of public transit services in Los Angeles County. The final report shall include specific recommendations to the Legislature on necessary changes in the state law to correct problems resulting from those statutory sections and shall also include any other action the commission plans to take to resolve the problems identified.

Article 5. Transportation Planning and Programming

130300. The Legislature finds and declares:

(a) That the near-term programming and budgeting requirements of state and federal law is a cooperative intergovernmental planning process intended to determine the foreseeable capital and operational needs of a multimodal transportation system.

(b) That there is an absence of an adequate forum in which local officials may exercise leadership in multimodal transportation planning and programming.

(c) Therefore, it is in the public interest to define the roles of various public entities with respect to long-range system planning and short-range capital and service planning and programming processes.

130301. The multicounty designated transportation planning agency which includes the area of the commission shall be responsible for long-range transportation system planning, including preparation of the regional transportation plan as defined in Chapter 2.5 (commencing with Section 65080) of Title 7 of the Government Code in such area.

Such planning shall be directed to, among other things:

(a) Identification of corridors of travel.

(b) Definition of the transportation problems of each corridor.

(c) Definition of the transportation goals for each corridor.

(d) Definition of land use goals, with the concurrence of affected local jurisdictions, that should be supported by transportation investment decisions in each corridor.

(e) Recommendation of priority corridors for major resource allocations.

(f) Recommendation of the mix of alternative transportation modes appropriate for deployment in light of the transportation needs and goals for each corridor.

(g) Recommendation of environmental, economic, energy, and social policies that should guide transportation investment decision within corridors.

(h) Coordination of the plans and short-range transportation improvement programs developed by the commissions, including resolution of conflicts between such plans and programs.

(i) Determination of regional priorities and an annual regional program for the use of federal-aid urban system funds, and funds to be expended pursuant to Section 1604 of Title 49 of the United States Code, based on the priorities of projects appearing in the short-range transportation improvement program adopted by each commission.

(j) Administration of the regional program for the expenditure of funds allocated pursuant to Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 for projects approved by the commission.

(k) Review and comment concerning all near-term transportation improvement programs after the development of, but prior to, adoption of such programs by the commission. The review shall be conducted pursuant to Section 130059 and in such a manner so that it does not unnecessarily slow or impede the transportation planning and programming process.

(*l*) Development of an annual unified work program for all transportation planning activities within the jurisdiction of the multicounty designated transportation planning agency in cooperation and coordination with the Department of Transportation and the commission and in conformance with federal laws and rules and regulations. Such cooperation and coordination shall specifically apply to the determination of appropriate planning methods for projecting and planning transportation use, and its effect on land use, within the jurisdiction of the agency.

130302. The role of the multicounty designated transportation planning agency, in coordinating, reviewing, and resolving intercommission conflicts, approving multicounty transportation plans, in developing plans and programs, shall be a cooperative effort with the commissions and shall be executed so as not to unnecessarily impede or slow the transportation planning and programming process.

130303. With respect to the area under its jurisdiction, the

commission shall be responsible for short-range capital and service planning directed to:

(a) Determination, on an annual basis, of the total amount of funds that could be available to the commission for transportation planning and development.

(b) Development and approval of a short-range three- to five-year transportation improvement program with an annual updated element reflecting all transportation capital and service priorities within the jurisdiction of the commission to be developed with all appropriate coordination and cooperation between the commission and state and local transportation agencies and operators. All projects utilizing federal and state highway and transit funds, and all exclusive public mass transit guideway projects no matter how funded, shall be included in a transportation improvement program adopted by the commission. The program shall also be developed in coordination with the multicounty designated transportation planning agency and the Department of Transportation, shall be consistent with the adopted regional transportation plan, and shall be reviewed and commented on pursuant to subdivision (k) of Section 130301.

(c) Coordination and approval of all public mass transit service within the jurisdiction of the commission and between the jurisdiction of other commissions or transit operators.

(d) Determination or approval of the location and capacity of all capital development projects, including, but not limited to, exclusive public mass transit guideway systems, state highway projects, and federal-aid highway projects, except for highway projects on routes determined by the State Transportation Board to be of statewide significance.

(e) Selection and specific approval of appropriate mass transit hardware and technology to be funded by the transportation improvement program.

(f) Determination and approval of the staging and scheduling of construction and other development relative to all transportation improvement projects to be funded by the transportation improvement program.

130304. The commission shall submit the short-range transportation improvement program prepared pursuant to subdivision (b) of Section 130303 to the multicounty designated transportation planning agency. The program shall be the commission's recommendation to the agency regarding that portion of the regional transportation plan with respect to the schedule of improvements and the financial plan as required pursuant to subdivision (e) of Section 65081 of the Government Code. The recommended program shall be submitted to the agency in a timely fashion, and the agency shall review and adopt this element of the regional transportation plan in a timely fashion, giving full explanation for any necessary modification of the commission's recommended program.

130305. The commission 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. Public transit operators or other public agencies may only apply for such funds under such terms as prescribed by the commission. The commission may authorize the operator or the agency, as the case may be, to be responsible for the administration of its grant on the condition that the commission receives adequate and timely notice of all formal or other significant communications between the operator or agency and the federal government regarding the grant.

130306. The commission shall determine the projects on the federal-aid urban system to be funded. The commission shall determine the projects to be funded pursuant to Sections 1602 and 1604 of Title 49 of the United States Code. The commission shall also determine the program to be funded by funds allocated pursuant to Chapter 4 (commencing with Section 99200) of Part 11 of Division 10.

Article 6. Transactions and Use Taxes

130350. A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the County of Los Angeles may be adopted by the Los Angeles County Transportation Commission in accordance with Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, provided that a majority of the electors voting on the measure vote to authorize its enactment at a special election called for that purpose by the commission.

130351. The County of Los Angeles shall conduct the special election called by the commission pursuant to Section 130350, and the commission shall reimburse the county for its cost in conducting the special election.

The special election shall be called and conducted in the same manner as provided by law for the conduct of special elections by a county.

130352. Any transactions and use tax ordinance adopted shall be operative on the first day of the first calendar quarter commencing not less than 180 days after adoption of the ordinance.

130353. Repeal of the transactions and use tax ordinance shall not be operative earlier than the first day of the first calendar quarter following the adoption of the ordinance of repeal.

130354. The revenues received by the Los Angeles County Transportation Commission from the imposition of the transactions and use taxes shall be used for public transit purposes.

130355. This article shall be operative only if the Southern California Rapid Transit District has not been authorized, prior to January 1, 1977, by the electors thereof to impose transactions and use taxes.

SEC. 17. Section 7252 of the Revenue and Taxation Code, as

amended by Chapter 1186 of the Statutes of 1975, is amended to read:

7252. "District", as used in this part, means any transit district or rapid transit district authorized, or the Los Angeles County Transportation Commission if authorized, to impose transaction and use taxes pursuant to this part.

SEC. 18. Part 17 (commencing with Section 37001) of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 199 of the Streets and Highways Code, as amended by Chapter 294 of the Statutes of 1975, is amended to read:

199. Upon the approval of a proposition by the voters of an area pursuant to Section 4 of Article XXVI of the California Constitution, the entity, including, but not limited to, a transit district, responsible for construction of an exclusive public mass transit guideway project in that area may submit the project to the department for inclusion in its resource allocation recommendations. If the project is located within an area under the jurisdiction of a statutorily created regional transportation agency, including a county transportation commission, the project shall be approved by the agency prior to being submitted to the department.

The department shall submit its resource allocation recommendations for that project for the comment and review of the transportation planning agency designated in Section 29532 of the Government Code for the area, except that in the case of a project located within an area under the jurisdiction of a statutorily created regional transportation agency, including a county transportation commission, the project shall be approved by the agency. In addition, all projects shall be submitted by the department to the State Transportation Board for its approval as being in conformance with the regional transportation plan for that area and the California Transportation Plan, before the department presents its budget recommendations to the California Highway Commission for funding the project from the State Highway Account under such terms and conditions as the California Highway Commission and board deem appropriate and subject to the percentage limitation of Section 200.

If, at any time during the resource allocation decision process, the department or California Highway Commission is unable to achieve an agreement with the entity concerning a transit project, the entity, the department, or the California Highway Commission may request the Secretary of the Business and Transportation Agency to convene and chair a committee composed of an equal number of members of the board and California Highway Commission to resolve the disagreement.

The funds set aside pursuant to this section and Section 199.1 shall be deemed expenditures on the state highway system for purposes of Sections 188, 188.8, and 188.9 and shall be separately identified in the budget report submitted to the Legislature pursuant to Sections 143.1 and 143.2.

SEC. 20. Sections 5 to 11, inclusive, of this act shall become

operative only if the Southern California Rapid Transit District has not been authorized, prior to January 1, 1977, by the electors thereof to impose transactions and use taxes.

SEC. 21. 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 self-financing authority is provided in this act to cover such costs.

CHAPTER 1334

An act to amend Sections 2618, 2630, 2642, and 2645 of, to add Section 2630.5 to, and to repeal Section 2621 of, the Labor Code, relating to employee housing.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 2618 of the Labor Code is amended to read:

2618. (a) "Temporary labor camp" means a labor camp which is not operated on the same site annually and which is established for one operation and is then removed.

(b) "Seasonal labor camp" means any camp which is operated annually on the same site and which is occupied for not more than 180 days in any calendar year.

(c) "Permanent labor camp" means any labor camp which is not temporary or seasonal.

(d) "Permanent housing" means single family detached dwellings subject to this chapter, which are provided for habitation by permanent year-round employees and their families.

SEC. 2. Section 2621 of the Labor Code is repealed.

SEC. 3. Section 2630 of the Labor Code is amended to read:

2630. Every person operating a labor camp shall obtain a permit to operate such labor camp from the enforcement agency. It shall be unlawful for any person to operate a labor camp without a valid permit to operate issued by the enforcement agency. Permits to operate shall be issued annually by the enforcement agency. However, a permit to operate a labor camp consisting only of permanent housing may, when approved by the enforcement agency, be issued for a longer period of time not to exceed five years. A permit to operate shall be valid from the date of issuance through December 31 of the year of issuance, or December 31 of the year designated by the enforcement agency for permanent housing labor camps. Such permits may prescribe conditions on the use or occupancy of a labor camp. The Department of Housing and Community Development shall be the enforcement agency for any

labor camp owned or operated by a railroad corporation.

SEC. 4. Section 2630.5 is added to the Labor Code, to read:

2630.5. No permit to operate a labor camp shall be issued for a period of time longer than one year during the first year of operation of the camp, or if within the previous two years the camp has been found to be in violation of this chapter or the regulations adopted pursuant thereto. Whenever the enforcement agency issues a permit for a period of time longer than one year, it shall make written findings indicating the reasons for issuing such a permit.

The findings of the enforcement agency shall include, but not be limited to, the following information:

(a) The year the dwellings on the labor camp were constructed.

(b) The number of years the labor camp has been operated with a valid permit to operate.

(c) The number and character of any complaints received during the time the labor camp has been operating either with or without a permit.

(d) Any violations cited in the last inspection of the labor camp.

SEC. 5. Section 2642 of the Labor Code is amended to read:

2642. The enforcement agency shall annually enter and inspect all registered labor camps; except labor camps consisting only of permanent housing which have been issued multiyear permits to operate pursuant to Section 2630; and all accommodations, equipment, or paraphernalia connected therewith and shall make such reinspection as deemed necessary to assure compliance with the current provisions of this part and the regulations adopted pursuant thereto. The enforcement agency shall make every effort to complete such inspection prior to the occupancy of such labor camps.

SEC. 6. Section 2645 of the Labor Code is amended to read:

2645. (a) Any labor camp which does not conform to this chapter, the regulations adopted pursuant thereto, or conditions of the permit, is a public nuisance and if not made to conform within five days, or within such longer period of time, not to exceed 30 days, which may be allowed by the enforcement agency after written notice, shall be abated by proper action brought in the superior court of the county in which the labor camp or greater portion thereof is situated. Where inspection verifies that the owner or operator of a labor camp is proceeding with reasonable diligence, or where conditions beyond the control of the owner or operator prevent conformance, the enforcement agency may grant time extensions not to exceed 30 days in duration. No more than two such extensions shall be allowed by the enforcement agency prior to initiation of action to abate the public nuisance.

(b) Any violation of this chapter, the regulations adopted pursuant thereto, or the provisions of the permit which constitute an immediate or material hazard to the health or safety of the occupants of a labor camp, shall be remedied within five days after written notice by the enforcement agency, or shorter time in case of

emergency. In the event of failure to comply with this section, the Attorney General, or the attorney for the enforcement agency, shall, by verified complaint setting forth the facts, apply to the superior court for an order granting the relief for which the action or proceeding is brought until the entry of a final judgment or order.

(c) The superior court may make any order for which application is made pursuant to this section.

(d) In any action or proceeding brought pursuant to this chapter, service of summons is sufficient if served in the manner provided in the Code of Civil Procedure.

CHAPTER 1335

An act to add Sections 41175, 41176, and 41177 to the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 41175 is added to the Health and Safety Code, to read:

41175. As used in Section 41176 and Section 41177:

(a) "Revolving loan fund" means the Housing Predevelopment Loan Fund which is replenished continuously by repayments of principal on loans made from the fund.

(b) "Predevelopment loan" means a loan for required expenses, other than administrative and construction, which are incurred by local governmental agencies and nonprofit corporations in the process of, and prior to, securing long-term financing for production or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. Predevelopment loans may include, but are not limited to, loans covering costs associated with land purchase or options to buy land, with professional services such as architectural, engineering, or legal services, with permit or application fees, and with bonding, site preparation, related water or sewer development, or material expenses. In addition, such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(c) "Nonprofit corporation" means an entity incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code.

(d) "Low-income persons" means a person or family household whose annual income is no more than 80 percent of the median

income for a household of a similar size in the same area.

SEC. 2. Section 41176 is added to the Health and Safety Code, to read:

41176. There is hereby created in the State Treasury the Housing Predevelopment Loan Fund.

All money in the Housing Predevelopment Loan Fund, including any interest on loans made therefrom, is continuously appropriated to the department for carrying out the purposes of this section and Section 41177. The Housing Predevelopment Loan Fund shall be a revolving loan fund which shall be used to make predevelopment loans to local governmental agencies or nonprofit corporations for assisted housing for low-income persons in rural areas.

SEC. 3. Section 41177 is added to the Health and Safety Code, to read:

41177. The Housing Predevelopment Loan Fund shall be administered by the director and such persons within the department as the director may designate.

The revolving loan fund shall be administered in accordance with the following:

(a) The department may not commit more than 20 percent of the total moneys appropriated to the fund to any single borrower at any point in time.

(b) The department shall require adequate security for all loans made from the revolving loan fund. The term "adequate security" includes, but need not be limited to, a first lien on any property purchased with loan fund moneys, a promissory note, or an assignment of a land option except that in the case of Indian Trust Land a mortgage on a leasehold interest in the property shall be acceptable.

(c) The department shall, from time to time, direct the State Treasurer to invest moneys of the revolving loan fund which are not required for its current needs in such eligible securities as the department shall designate from among those specified in Section 16430 of the Government Code. The department may direct the State Treasurer to deposit moneys from the revolving loan fund in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The department may alternatively require the transfer of moneys in the revolving loan 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, dividends, and pecuniary gains from such investments or deposits shall accrue to the Housing Predevelopment Loan Fund.

(d) In complying with the provisions of Section 41109, the department shall also report annually to the Legislature and the Governor on the administration of the revolving loan fund. Such report shall include, but need not be limited to, (1) the number of units assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the

03623 287245 678

rents in assisted units, (4) the number and amount of loans made to each local governmental agency or nonprofit corporation in the preceding year, (5) data on the number of delinquencies and defaults, and (6) recommendations, as needed, to improve operations of the revolving loan fund.

(e) All loans made from the Housing Predevelopment Loan Fund shall bear interest. The rate of interest for any loan shall be computed annually, and shall be the same as the average rate returned by the investment of state funds through the Pooled Money Investment Board for the five fiscal years immediately preceding the year in which the loan payment is made.

SEC. 4. The sum of five hundred thirty-five thousand dollars ($535,000) is appropriated from the General Fund for deposit in the Housing Predevelopment Loan Fund which shall be allocated for expenditure in accordance with the following schedule:

Schedule:

(a) For making predevelopment loans pursuant to Sections 41175, 41176, and 41177 of the Health and Safety Code	$500,000
(b) For Department of Housing and Community Development expenses in administering the predevelopment loan program under Sections 41175, 41176, and 41177 of the Health and Safety Code	35,000

CHAPTER 1336

An act to amend Sections 33030, 33032, 33320.2, 33321, 33367, 33368, 33401, 33433, and 33445 of, to add Sections 33338.1 and 33399 to, and to repeal Sections 33032.1, 33033, and 33034 of, the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 33030 of the Health and Safety Code is amended to read:

33030. It is found and declared that there exist in many communities blighted areas which constitute either physical, social, or economic liabilities, requiring redevelopment in the interest of the health, safety, and general welfare of the people of such communities and of the state.

A blighted area is one which is characterized by one or more of those conditions set forth in Sections 33031 or 33032, causing a reduction of, or lack of, proper utilization of the area to such an

extent that it constitutes a serious physical, social, or economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise acting alone.

SEC. 3. Section 33032 of the Health and Safety Code is amended to read:

33032. A blighted area is characterized by properties which suffer from economic dislocation, deterioration, or disuse because of one or more of the following factors:

(a) An economic dislocation, deterioration, or disuse resulting from faulty planning.

(b) The subdividing and sale of lots of irregular form and shape and inadequate size for proper usefulness and development.

(c) The laying out of lots in disregard of the contours and other topography or physical characteristics of the ground and surrounding conditions.

(d) The existence of inadequate public improvements, public facilities, open spaces, and utilities which cannot be remedied by private or governmental action without redevelopment.

(e) A prevalence of depreciated values, impaired investments, and social and economic maladjustment.

(f) The existence of lots or other areas which are subject to being submerged by water; provided that any ecologically valuable existing features in such areas shall, to the maximum extent feasible, be preserved.

SEC. 4. Section 33032.1 of the Health and Safety Code is repealed.

SEC. 5. Section 33033 of the Health and Safety Code is repealed.

SEC. 6. Section 33034 of the Health and Safety Code is repealed.

SEC. 7. Section 33320.2 of the Health and Safety Code is amended to read:

33320.2. The area included within a project and a project area may be either contiguous or noncontiguous. All noncontiguous areas of a project area shall be either blighted or necessary for effective redevelopment. An unblighted, noncontiguous area shall be conclusively deemed necessary for effective redevelopment if such an area is being used predominantly for:

(a) Relocation of owners or tenants from other noncontiguous areas in the same project area or from other project areas in the community.

(b) Low- and moderate-income housing.

An unblighted, noncontiguous area shall be deemed not necessary for effective redevelopment if such an area is included for the purpose of obtaining the allocation of taxes from such area pursuant to Section 33670 without other substantial justification for its inclusion.

The redevelopment agency shall not use the power of eminent domain for acquisition of property, other than vacant land, in noncontiguous, unblighted areas.

SEC. 8. Section 33321 of the Health and Safety Code is amended to read:

33321. A project area need not be restricted to buildings, improvements, or lands which are detrimental or inimical to the public health, safety, or welfare, but may consist of an area in which such conditions predominate and injuriously affect the entire area. A project area may include lands, buildings, or improvements which are not detrimental to the public health, safety or welfare, but whose inclusion is found necessary for the effective redevelopment of the area of which they are a part. Each such area included under this section shall be necessary for effective redevelopment and shall not be included for the purpose of obtaining the allocation of tax increment revenue from such area pursuant to Section 33670 without other substantial justification for its inclusion.

SEC. 8.5. Section 33338.1 is added to the Health and Safety Code, to read:

33338.1. Every redevelopment plan shall contain the provisions of Section 33401 for the purpose of authorizing the agency to alleviate any financial burden or detriment caused to any taxing agency.

SEC. 9. Section 33367 of the Health and Safety Code is amended to read:

33367. The ordinance shall contain:

(a) The purposes and intent of the legislative body with respect to the project area.

(b) The plan incorporated by reference.

(c) A designation of the approved plan as the official redevelopment plan of the project area.

(d) The findings and determinations of the legislative body that:

(1) The project area is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part.

(2) The redevelopment plan would redevelop the area in conformity with this part and in the interests of the public peace, health, safety, and welfare.

(3) The adoption and carrying out of the redevelopment plan is economically sound and feasible.

(4) The redevelopment plan conforms to the general plan of the community.

(5) The carrying out of the redevelopment plan would promote the public peace, health, safety, and welfare of the community and would effectuate the purposes and policy of this part.

(6) The condemnation of real property, if provided for in the redevelopment plan, is necessary to the execution of the redevelopment plan and adequate provisions have been made for payment for property to be acquired as provided by law.

(7) The agency has a feasible method or plan for the relocation of families and persons displaced from the project area, if the redevelopment plan may result in the temporary or permanent displacement of any occupants of housing facilities in the project area.

(8) There are or are being provided in the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons displaced from the project area, decent, safe, and sanitary dwellings equal in number to the number of and available to such displaced families and persons and reasonably accessible to their places of employment.

(9) All noncontiguous areas of a project area are either blighted or necessary for effective redevelopment and are not included for the purpose of obtaining the allocation of taxes from such area pursuant to Section 33670 without other substantial justification for their inclusion.

(10) Inclusion of any lands, buildings, or improvements which are not detrimental to the public health, safety, or welfare is necessary for the effective redevelopment of the area of which they are a part; that any such area included is necessary for effective redevelopment and is not included for the purpose of obtaining the allocation of tax increment revenues from such area pursuant to Section 33670 without other substantial justification for its inclusion.

(11) The elimination of blight and the redevelopment of the project area could not be reasonably expected to be accomplished by private enterprise acting alone without the aid and assistance of the agency.

(e) A statement that the legislative body is satisfied permanent housing facilities will be available within three years from the time occupants of the project area are displaced and that pending the development of such facilities there will be available to such displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement.

(f) When the project is financed in part or in whole from revenues derived from the allocation of taxes pursuant to Section 33670, a statement that the legislative body is convinced that the effect of tax increment financing will not cause a severe financial burden or detriment on any taxing agency deriving revenues from a tax increment project area.

SEC. 10. Section 33368 of the Health and Safety Code is amended to read:

33368. The decision of the legislative body shall be final and conclusive, and it shall thereafter be conclusively presumed that the project area is a blighted area as defined by Sections 33031 or 33032 and that all prior proceedings have been duly and regularly taken.

This section shall not apply in any action questioning the validity of any redevelopment plan, or the adoption or approval of such plan, or any of the findings or determinations of the agency or the legislative body in connection with such plan brought pursuant to Section 33501 within the time limits prescribed by Section 33500.

SEC. 11. Section 33399 is added to the Health and Safety Code, to read:

33399. (a) If a public entity has adopted a redevelopment plan but has not commenced an eminent domain proceeding to acquire any particular parcel of property subject to eminent domain thereunder within three years after the date of adoption of the plan, the owner or owners of the entire fee at any time thereafter may offer in writing to sell the property to the agency for its fair market value. If the agency does not, within 18 months from the date of receipt of the original offer, acquire or institute eminent domain proceedings to acquire the property, the property owner or owners may file an action against the agency in inverse condemnation to recover damages from the agency for any interference with the possession and use of the real property resulting from the plan, provided that this section shall not be construed as establishing or creating a presumption to any right to damages or relief solely by reason of the failure of the agency to acquire the property within the time set forth in this section.

(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 expiration of the 18 months period.

(c) A public entity may commence an eminent domain proceeding or designate the property to be exempt from eminent domain under the plan at any time before the property owner commences an action under this section. If the public entity commences an eminent domain proceeding or designates the property to be exempt from acquisition by eminent domain 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 declare the property to be exempt from acquisition by eminent domain 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 of Title 7 of the Code of Civil Procedure, 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 declare the property acquisition exempt or to commence an eminent domain

proceeding to acquire the property.

(g) A declaration that property is exempt from acquisition by eminent domain shall be by resolution and shall be recordable. It shall exempt the property from eminent domain under the redevelopment plan, and the redevelopment agency shall have no power of eminent domain as to the property unless the redevelopment plan is thereafter amended to expressly make the property subject to acquisition by eminent domain.

(h) With respect to redevelopment projects for which a final redevelopment plan has been adopted prior to January 1, 1977, the three-year period provided for in subdivision (a) shall begin as of January 1, 1977.

SEC. 11.5. Section 33401 of the Health and Safety Code is amended to read:

33401. The agency may in any year during which it owns property in a redevelopment project pay directly to any city, county, city and county, district, including, but not limited to, a school district, or other public corporation for whose benefit a tax would have been levied upon such property had it not been exempt, an amount of money in lieu of taxes.

A proportionate share of any amount of money paid by an agency to any city and county pursuant to this section shall be disbursed by the city and county to any school district with territory located within a redevelopment project area in the city and county. "Proportionate share," as used in this section, means the ratio of the school district tax rate, which is included in the total tax rate of the city and county, to the total tax rate of the city and county.

The agency may also pay to any taxing agency with territory located within a project area other than the community which has adopted the project, any amounts of money which in the agency's determination is appropriate to alleviate any financial burden or detriment caused to any taxing agency by a redevelopment project.

SEC. 12. Section 33433 of the Health and Safety Code is amended to read:

33433. Before any property of the agency acquired in whole or in part, directly or indirectly, with tax increment moneys is sold or leased for development pursuant to the redevelopment plan, such sale or lease shall first be approved by the legislative body after public hearing. Notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community for at least two successive weeks prior to the hearing.

The agency shall make available for public inspection and copying at a cost not to exceed the cost of duplication:

(a) A copy of the proposed sale or lease;

(b) A summary which describes and specifies:

(1) The cost of the agreement to the agency, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the agency, plus the expected interest on any loans or bonds to finance the agreements;

(2) The estimated value of the interest to be conveyed or leased, determined at the highest uses permitted under the plan; and

(3) The purchase price or sum of the lease payments which the lessor will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use consistent with the redevelopment plan, then the agency shall provide as part of the summary an explanation of the reasons for the difference.

Such report shall be made available to the public no later than the time of publication of the first notice of the hearing mandated by this section. The resolution approving such lease or sale shall be adopted by a majority vote unless the legislative body has provided by ordinance for a two-thirds vote for such purpose and shall contain findings that the consideration is not less than fair market value in accordance with covenants and conditions governing such sale or lease or, with respect to any sale or lease at less than estimated value, determined at the highest use permitted under the plan, that such lesser consideration is necessary to effectuate the purposes of the plan.

SEC. 13. Section 33445 of the Health and Safety Code is amended to read:

33445. Notwithstanding the provisions of Section 33440, an agency may, with the consent of the legislative body, pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement which is publicly owned either within or without the project area, if the legislative body determines: (1) that such buildings, facilities, structures, or other improvements are of benefit to the project area or the immediate neighborhood in which the project is located, regardless of whether such improvement is within another project area, or in the case of a project area in which substantially all of the land is publicly owned that such improvement is of benefit to an adjacent project area of the agency, and (2) that no other reasonable means of financing such buildings, facilities structures, or other improvements, are available to the community. Such determinations by the agency and the local legislative body shall be final and conclusive. For redevelopment plans, and amendments to such plans which add territory to a project, adopted after October 1, 1976, acquisition of property and installation or construction of each facility shall be provided for in the redevelopment plan.

When the value of such land or the cost of the installation and construction of such building, facility, structure, or other improvement, or both, has been, or will be, paid or provided for initially by the community or other public corporation, the agency may enter into a contract with the community or other public corporation under which it agrees to reimburse the community or other public corporation for all or part of the value of such land or

03672 287365 702

all or part of the cost of such building, facility, structure, or other improvement, or both, by periodic payments over a period of years.

The obligation of the agency under such contract shall constitute an indebtedness of the agency for the purpose of carrying out the redevelopment project for such project area, which indebtedness may be made payable out of taxes levied in such project area and allocated to the agency under subdivision (b) of Section 33670, or out of any other available funds.

In a case where such land has been or will be acquired by, or the cost of the installation and construction of such building, facility, structure or other improvement has been paid by, a parking authority, joint powers entity, or other public corporation to provide a building, facility, structure, or other improvement which has been or will be leased to the community, such contract may be made with, and such reimbursement may be made payable to, the community.

With respect to the financing, acquisition, or construction of a transportation, collection, and distribution system and related peripheral parking facilities, in a county with a population of four million (4,000,000) persons or more, the agency shall, in order to exercise the powers granted by this section, enter into an agreement with the rapid transit district which includes such county, or a portion thereof, in which agreement such rapid transit district shall be given all of the following responsibilities:

(a) To participate with the other parties to the agreement to design, determine the location and extent of the necessary rights-of-way for, and construct, the transportation, collection, and distribution systems and related peripheral parking structures and facilities.

(b) To operate and maintain such transportation, collection, and distribution systems and related peripheral parking structures and facilities in accordance with the rapid transit district's outstanding agreements and the agreement required by this paragraph.

CHAPTER 1337

An act to amend Sections 33327 and 33352 of, and to add Sections 33328, 33328.3, 33328.4, 33333.2, 33334.1, 33334.2, 33334.3, 33353, 33353.1, 33353.2, 33353.4, 33353.5, 33353.6, 33354.4, 33354.5, 33354.6, 33421.1, and 33675 to, and to repeal Section 33333.5 of, the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 33327 of the Health and Safety Code is amended to read:

33327. After receipt of any preliminary redevelopment plan pursuant to Section 33325, the agency shall transmit to the auditor and tax collector of the county in which the proposed project is located, or to the officer or officers performing the functions of the auditor or assessor for any taxing agencies which, in levying or collecting its taxes, do not use the county assessment roll or do not collect its taxes through the county, to the legislative or governing bodies of such taxing agencies, and to the State Board of Equalization:

(1) A description of the boundaries of the project area and the property outside the project area specified in subdivision (g) of Section 33328.

(2) A statement that a plan for the redevelopment of the area is being prepared.

(3) A map indicating the boundaries of the project area and the property outside the project area specified in subdivision (g) of Section 33328.

Thereafter, if the boundaries of the proposed project are changed to increase the land within the project area, the agency shall notify such taxing officials and the State Board of Equalization by transmitting a description and map indicating each such boundary change made. The State Board of Equalization shall prescribe the format of the description of boundaries and statements, and the form, size, contents, and number of copies of the map required to be transmitted pursuant to this section.

SEC. 2. Section 33328 is added to the Health and Safety Code, to read:

33328. When it transmits the map of the project area to the county officials, taxing agencies, and the State Board of Equalization pursuant to Section 33327, the redevelopment agency shall also advise such officials and agencies of the last equalized assessment roll it proposes to use for the allocation of taxes pursuant to Section 33670. That roll shall be known and referred to as the base year assessment roll. The county officials charged with the responsibility of allocating taxes under Section 33670 shall prepare and deliver to the redevelopment agency and each of the taxing agencies, a report which shall include the following:

(a) The total assessed valuation of all taxable property within the project area as shown on the base year assessment roll.

(b) The identifications of each taxing agency levying taxes in the project area.

(c) The amount of tax revenue to be derived by each taxing agency from the base year assessment roll from the project area, including state subventions for homeowners, business inventory, and similar such subventions.

(d) For each taxing agency, its total ad valorem tax revenues from all property within its boundaries, whether inside or outside the project area.

(e) The estimated first year taxes available to the redevelopment agency, if any, based upon information submitted by the redevelopment agency, broken down by taxing agencies.

(f) The assessed valuation of the project area, by block, for the preceding five years, except for state assessed property on the board roll.

(g) The total assessed valuation of all taxable property outside of the project area which is within 300 feet from the boundaries of the project area as shown on the base year assessment roll. For the purposes of this section "property within 300 feet" means and includes all of any parcel of property and any taxable property situated thereon, up to the boundaries of such parcel, when any part of the parcel is within 300 feet of the boundaries of the project area. The report, when received by the redevelopment agency, shall be included in the report required by Section 33352.

For public utilities, the reporting requirements of this section for the area that is within 300 feet of the boundaries of the project area may be met by providing the total assessed value of all land and improvements. The report, when received by the redevelopment agency, shall be included in the report required by Section 33352.

The report shall be prepared and delivered to the redevelopment agency and each of the taxing agencies within 90 days of the date of filing by the redevelopment agency with the State Board of Equalization or as otherwise agreed upon by the agency and the State Board of Equalization. If the proposed base year assessment roll has not yet been equalized at the time of the receipt of such advice, then the report shall be prepared and delivered within 90 days, or other period, otherwise agreed upon, by the agency and the State Board of Equalization, from the date set forth in Section 2050 of the Revenue and Taxation Code.

If the filing does not comply with the requirements of Section 33327, the State Board of Equalization or the official of the taxing agency entitled to receive such documents shall notify the filing agency within 10 days, stating the manner in which the filing of documents does not comply with this section. If no such notice is given it shall be conclusively presumed that the agency has complied with the provisions of this section.

If such report is not received within the time prescribed by this section, the redevelopment agency may proceed with the adoption of the redevelopment plan. The county officials may transmit a partial report, and any final report or additional information, if received by the agency prior to the close of the public hearing on the redevelopment plan shall become part of the record of the public hearing.

The State Board of Equalization and officials of all taxing agencies shall provide the county officials preparing the report with all information necessary for its preparation. All data and information upon which said report is based shall be available to the agency to

the extent permitted by law.

Prior to the publication of notice of the legislative body's public hearing on the plan, the agency shall consult with each taxing agency which levies taxes, or for which taxes are levied, on property in the project area with respect to the plan and to the allocation of taxes pursuant to Section 33670.

SEC. 3. Section 33328.3 is added to the Health and Safety Code, to read:

33328.3. If the boundaries of the project area are changed, the redevelopment agency shall notify the county officials by transmitting to them, the legislative or governing bodies of the taxing agencies, and to the State Board of Equalization, the information required by Section 33327 indicating the areas to be added. Within 90 days from the date of filing or such a period as otherwise agreed to by the agency and the State Board of Equalization, the county officials shall prepare and submit to the redevelopment agency and the taxing agencies a report containing the information required under Section 33328, with respect to such areas to be added to the project area.

If a filing does not comply with the requirements of this section, the State Board of Equalization or the official of the taxing agency entitled to receive such documents shall notify the filing agency within 10 days, stating the manner in which the filing of documents does not comply with this section. If no such notice is given it shall be conclusively presumed that the agency has complied with the provisions of this section.

If the change of boundaries does not exceed the area specified in subdivision (g) of Section 33328, the report under this section shall not be required.

SEC. 3.5. Section 33328.4 is added to the Health and Safety Code, to read:

33328.4. The State Board of Equalization shall establish a schedule of fees for filing and processing the statements and maps which are required to be filed with the State Board of Equalization pursuant to Section 33327 or or 33328.3. Such schedule shall not include any fee which exceeds the reasonably anticipated cost to the State Board of Equalization of performing the work to which the fee relates. The agency forwarding the statement and map pursuant to Section 33327 or 33328.3 shall accompany the statement and map with the necessary fee.

SEC. 4. Section 33333.2 is added to the Health and Safety Code, to read:

33333.2. A redevelopment plan containing the provisions set forth in Section 33670 shall also contain:

(1) A limitation on the number of dollars of taxes which may be divided and allocated to the redevelopment agency pursuant thereto. Taxes shall not be divided and shall not be allocated to the redevelopment agency beyond such limitation, except by amendment of the redevelopment plan.

(2) A time limit on the establishing of loans, advances, and indebtedness to finance in whole or in part the redevelopment project. Such loans, advances, or indebtedness may be repaid over a period of time longer than such time limit. No loans, advances, or indebtedness to be repaid from such allocation of taxes shall be established or incurred by the agency beyond such time limitation. Such time limitation may be extended only by amendment of the redevelopment plan.

(3) A time limit, not to exceed 12 years, for commencement of eminent domain proceedings to acquire property within the project area. Such time limitation may be extended only by amendment of the redevelopment plan.

This section shall apply only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) of this chapter on or after October 1, 1976.

SEC. 5. Section 33333.5 of the Health and Safety Code is repealed.

SEC. 6. Section 33334.1 is added to the Health and Safety Code, to read:

33334.1. If the plan authorizes the issuance of bonds to be repaid in whole or in part from the allocation of taxes pursuant to Section 33670, the plan shall establish a limit on the amount of bonded indebtedness which can be outstanding at one time without an amendment of the plan. This section shall apply only to redevelopment plans adopted on or after October 1, 1976.

SEC. 7. Section 33334.2 is added to the Health and Safety Code, to read:

33334.2. Not less than 20 percent of all taxes which are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing and improving the community's supply of housing for persons and families of low or moderate income, as defined in Section 41056, and very low income households, as defined in Section 41067, unless one of the following findings are made:

(a) That no need exists in the community, the provision of which would benefit the project area to improve or increase the supply of housing for persons and families of low or moderate income or very low income households; or

(b) That some stated percentage less than 20 percent of the taxes which are allocated to the agency pursuant to Section 33670 is sufficient to meet such housing need; or

(c) That a substantial effort to meet low- and moderate-income housing needs in the community is being made, and that this effort, including the obligation of funds currently available for the benefit of the community from state, local, and federal sources for low- and moderate-income housing alone or in combination with the taxes allocated under this section, is equivalent in impact to the funds otherwise required to be set aside pursuant to this section. The

legislative body shall consider the need that can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within or adjacent to the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan.

In any litigation to challenge or attack a finding made under subdivision (a), (b), or (c), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency.

Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

In carrying out the purpose of this section, the agency may exercise any or all of its powers, including the following:

(a) Acquire land or building sites.

(b) Improve land or building sites with onsite or offsite improvements.

(c) Donate land to private or public persons or entities.

(d) Construct buildings or structures.

(e) Acquire buildings or structures.

(f) Rehabilitate buildings or structures.

(g) Provide subsidies to or for the benefit of persons or families of very low, low, or moderate income.

(h) Develop plans, pay principal and interest on bonds, loans, advances or other indebtedness, or pay financing or carrying charges.

The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 33413. However, nothing in this section shall be construed as limiting in any way the requirements of that section.

The agency may use these funds inside or outside the project area. The agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that such use will be of benefit to the project. Such determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always of benefit to a project. Unless the legislative body finds before the redevelopment plan is adopted, that the provision of low- and moderate-income housing outside the project area will be of benefit to the project, the project area shall include property suitable for low- and moderate-income housing.

The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

The requirements of this section shall only apply to taxes allocated to a redevelopment agency for which a final redevelopment plan is

adopted on or after the effective date of this section, or for any area which is added to a project by an amendment to a redevelopment plan, which amendment is adopted on or after the effective date of this section. An agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to the effective date of this section, subject to any indebtedness incurred prior to such election.

SEC. 8. Section 33334.3 is added to the Health and Safety Code, to read:

33334.3. The funds which are required by Section 33334.2 to be used for the purposes of increasing the community's supply of housing for persons and families of low or moderate income shall be held in a separate Low and Moderate Income Housing Fund until used.

Any interest earned by the Low and Moderate Income Housing Fund shall accrue to the fund and may only be used in the manner prescribed in Section 33334.2.

SEC. 9. Section 33352 of the Health and Safety Code is amended to read:

33352. Every redevelopment plan submitted by the agency to the legislative body shall be accompanied by a report containing:

(a) The reasons for the selection of the project area.

(b) A description of the physical, social, and economic conditions existing in the area.

(c) The proposed method of financing the redevelopment of the project area in sufficient detail so that the legislative body may determine the economic feasibility of the plan.

(d) A method or plan for the relocation of families and persons to be temporarily or permanently displaced from housing facilities in the project area, which method or plan shall include the provision required by Section 33411.1 that no persons or families of low and moderate income shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by such displaced person or family at rents comparable to those at the time of their displacement.

(e) An analysis of the preliminary plan.

(f) The report and recommendations of the planning commission.

(g) The summary referred to in Section 33387.

(h) The report required by Section 65402 of the Government Code.

(i) The report required by Section 21151 of the Public Resources Code.

(j) The report of the county fiscal officer as required by Section 33328.

(k) The report of the fiscal review committee, if any.

(*l*) If the project area contains low- or moderate-income housing, a neighborhood impact report which describes in detail the impact of the project upon the residents of the project area and the

surrounding areas, in terms of relocation, traffic circulation, environmental quality, availability of community facilities and services, effect on school population and quality of education, property assessments and taxes, and other matters affecting the physical and social quality of the neighborhood.

(m) An analysis by the agency of the report submitted by the county as required by Section 33328, which shall include a summary of the consultation of the agency, or attempts to consult by the agency, with each of the taxing agencies as required by Section 33328.

SEC. 10. Section 33353 is added to the Health and Safety Code, to read:

33353. In connection with the preparation of the report under Section 33328 for a redevelopment plan utilizing tax increment financing, the county or any affected taxing entity may call for the creation of a fiscal review committee, within 15 days after receipt of documents from the agency under Section 33327, to assist in the preparation of the report.

SEC. 11. Section 33353.1 is added to the Health and Safety Code, to read:

33353.1. The fiscal review committee for a redevelopment plan shall be composed of one representative from each of the affected taxing entities. The representative of the county shall chair the committee.

SEC. 12. Section 33353.2 is added to the Health and Safety Code, to read:

33353.2. "Affected taxing entity" means any governmental taxing agency which levied a property tax on all or any portion of the property located in the proposed project area in the fiscal year prior to submission of the plan to the committee.

SEC. 14. Section 33353.4 is added to the Health and Safety Code, to read:

33353.4. In the event a fiscal review committee is created pursuant to Section 33353, the redevelopment agency shall send the redevelopment plan to the representative of the county, designated by the county. If the county has not designated a representative, the agency shall send the plan to the chief administrative officer. The county representative or the chief administrative officer shall convene the fiscal review committee with all due dispatch, and set a hearing date not less than 30 and not more than 54 days from the transmission of the plan by the agency to the county representative or county assessor.

SEC. 15. Section 33353.5 is added to the Health and Safety Code, to read:

33353.5. In the event a fiscal review committee is created pursuant to Section 33353, at the conclusion of the hearing, the fiscal review committee shall report to the agency on the fiscal impact of the redevelopment plan or the amendment to the redevelopment plan on each of the members of the fiscal review committee.

The fiscal review committee may suggest amendments to the plan,

03674 287495 728

the adoption of which would alleviate or eliminate any fiscal effects which may be detrimental to the affected taxing entities.

SEC. 16. Section 33353.6 is added to the Health and Safety Code, to read:

33353.6. A copy of the report of the fiscal review committee referred to in Section 33353.5 shall be forwarded to the Director of Housing and Community Development.

SEC. 18. Section 33354.4 is added to the Health and Safety Code, to read:

33354.4. No plan is required to be submitted to a fiscal review committee where all the affected taxing jurisdictions are governed by the same legislative body as the redevelopment agency.

SEC. 19. Section 33354.5 is added to the Health and Safety Code, to read:

33354.5. Where an agency proposes to amend a redevelopment plan which does not utilize tax increment financing to include a tax allocation provision, the agency shall follow the same procedure and the legislative body is subject to the same restrictions as provided for in this article for the adoption of a plan.

SEC. 20. Section 33354.6 is added to the Health and Safety Code, to read:

33354.6. Where an agency proposes to amend a redevelopment plan which utilizes tax increment financing to add a significant amount of new territory to the project area, the agency must follow the same procedure, and the legislative body is subject to the same restrictions as provided for in this article for the adoption of a plan.

SEC. 21. Section 33421.1 is added to the Health and Safety Code, to read:

33421.1. Without the prior consent of the legislative body, the agency may not use its authority under Section 33421 to develop a site for industrial or commercial use so as to provide streets, sidewalks, utilities, or other improvements which an owner or operator of the site would otherwise be obliged to provide.

In giving consent, the legislative body shall make a finding that the provision of such improvements is necessary to effectuate the purposes of the redevelopment plan.

SEC. 22. Section 33675 is added to the Health and Safety Code, to read:

33675. (a) The portion of taxes required to be allocated pursuant to subdivision (b) of Section 33670 shall be allocated and paid to the agency by the county auditor or officer responsible for the payment of taxes into the funds of the respective taxing agencies pursuant to the procedure contained in this section.

(b) Not later than the first day of October of each year, the agency shall file with the county auditor or officer described in subdivision (a) of this section, a statement of indebtedness certified to by the chief fiscal officer of the agency for each redevelopment project, the redevelopment plan for which provides for the division of taxes pursuant to Section 33670.

(c) The statement of indebtedness shall contain for each such redevelopment project:

(1) The date on which each loan, advance, or indebtedness was incurred or entered into.

(2) The principal amount term, purpose, and interest rate, of each loan, advance, or indebtedness.

(3) The outstanding balance and amount due or to be paid by the agency of each loan, advance, or indebtedness. The State Board of Equalization shall adopt a uniform form of statement of indebtedness.

(d) The county auditor or officer shall at the same time or times as the payment of taxes into the funds of the respective taxing agencies of the county, allocate and pay the portion of taxes provided by subdivision (b) of Section 33670 to each agency in an amount not to exceed the amount as shown on the agency's statement of indebtedness.

(e) The statement of indebtedness shall be prima facie evidence of the indebtedness of the agency. If the county auditor or other officer disputes the amount of indebtedness as shown in the statement of indebtedness, the county auditor or other officer shall, within 30 days after receipt of the statement, give written notice to the agency thereof. The agency shall, within 30 days after receipt of such notice, submit such further information as it deems appropriate to substantiate the amount of any indebtedness which has been disputed. If the county auditor or other officer still disputes the amount of indebtedness, final written notice thereof shall be given to the agency and the amount disputed may be withheld from allocation and payment to the agency as provided in subdivision (c) of this section. In such event, the auditor or other officer shall bring an action in the superior court in declaratory relief to determine the matter not later than 90 days after the date of the final notice. The issue in any such action shall involve only the amount of indebtedness, and not the validity of any contract or debt instrument or any expenditures pursuant thereto. Payments to a trustee under a bond resolution or indenture of any kind or payments to a public agency in connection with payments by such public agency pursuant to a lease or bond issue shall not be disputed in any action under this section. Any such action shall be set for trial at the earliest possible date and shall take precedence of all other cases except older matters of the same character. Unless an action is brought within the time provided for herein, the auditor or other officer shall allocate and pay the amount shown on the statement of indebtedness as provided in subdivision (d) of this section.

(f) Nothing in this section shall be construed to permit a challenge to or attack on matters precluded from challenge or attack by reason of Sections 33500 and 33501; provided that nothing in this section shall be construed to deny a remedy against the agency otherwise provided by law.

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 it by this act.

CHAPTER 1338

An act to add Section 33675 to, and to add Article 13 (commencing with Section 33460) to Chapter 4 of Part 1 of Division 24 of, the Health and Safety Code, relating to community redevelopment and housing.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Article 13 (commencing with Section 33460) is added to Chapter 4 of Part 1 of Division 24 of the Health and Safety Code, to read:

Article 13. Merger of Redevelopment Project Areas

33460. For the purpose of allocating taxes pursuant to Section 33670 and subject to the provisions of this article, redevelopment project areas under the jurisdiction of the redevelopment agency of the City of Sacramento, for which redevelopment plans have been adopted pursuant to Article 5 (commencing with Section 33360) of this chapter, may be merged, irrespective of contiguity, by the amendment of each affected redevelopment plan as provided in Article 12 (commencing with Section 33450) of this chapter. Each constituent project area so merged shall continue under its own redevelopment plan, but, except as otherwise provided in this article, taxes attributable to each project area merged pursuant to this section which are allocated to the redevelopment agency pursuant to Section 33670 may be allocated, as provided in subdivision (b) of such section, to the entire merged project area for the purpose of paying the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, such merged redevelopment project.

33461. If the redevelopment agency has prior to merger of redevelopment project areas pursuant to this article incurred any indebtedness on account of a constituent project area so merged, taxes attributable to such area which are allocated to the agency pursuant to Section 33670 shall be first used to comply with the terms of any bond resolution or other agreement pledging such taxes from

such constituent project area.

33462. Subject to the provisions of Section 33461, where a redevelopment project area merged pursuant to this article contains a constituent project area which is a neighborhood project area, as defined in this section, tax revenues attributable to such neighborhood project area may be expended only in neighborhood project areas within the merged redevelopment project area.

For the purposes of this article, "neighborhood project area" means an individual project area merged with other project areas pursuant to this article, and (1) for which the redevelopment plan designates not less than 20 percent of the land area suitable for development in low- or moderate-income housing, or (2) which was designated as a neighborhood development project area by the United States Department of Housing and Urban Development pursuant to Public Law 90-448, without regard to whether such area continues to receive subvention under Public Law 90-448.

33463. Nothing in Section 33462 shall be construed to limit any authority a redevelopment agency may have to provide housing under Section 33449 anywhere within its jurisdiction.

33464. (a) Subject to the terms of any loans, advances, or other indebtedness secured by a pledge of tax revenues from a constituent project area pursuant to Section 33671 and incurred by the redevelopment agency prior to the merger of project areas pursuant to Section 33460, not less than 50 percent of all taxes allocated to the agency pursuant to Section 33670 for the project areas merged pursuant to this article shall be deposited in a special fund of the agency and be used solely to meet the obligations of the agency under subdivision (b), until such time as sufficient moneys have been deposited in the fund to satisfy such obligations.

(b) The agency shall rehabilitate, develop, construct, or cause to be rehabilitated, developed, or constructed for rental or sale to persons and families of low or moderate income, as defined in Section 41056, residential dwelling units equal in number to those destroyed or removed as part of the redevelopment of all areas within the merged redevelopment project area. The obligation of the agency to replace residential dwelling units removed or destroyed shall apply to all residential dwelling units removed or destroyed by the agency within the merged project areas, whether such removal or destruction occurs prior or subsequent to the merger of project areas. Not less than one-half of all moneys required by this section for such purposes shall be used to acquire land, donate land, or improve sites for housing for, or to construct or rehabilitate structures as housing for, or to provide housing subsidies for, very low income households, as defined in Section 41067. The obligation of the agency under this subdivision shall be in addition to any housing units which the agency may choose to construct or substantially rehabilitate with federal or state financial assistance. However, the agency may use federal or state rental subsidy programs to make the units provided pursuant to this section available to very low income

households, as defined by Section 41067.

33464.5. For the purpose of implementing the provisions of this article, the legislative body may delegate to the redevelopment agency any or all of the powers of a community development commission specified in Part 1.7 (commencing with Section 34100) of this division.

33465. The redevelopment plan for a project area which is merged pursuant to Section 33460 shall be amended in the same manner as other redevelopment plans are amended. Notice of the public hearing shall be mailed to the last known assessee of each parcel of land not owned by the agency within the boundaries of the project area described in the redevelopment plan being amended. Notice of the public hearing need not be mailed to assessees of parcels of land within the boundaries of other project areas combined into a merged project area pursuant to Section 33460 except that notice of the public hearing shall be given to the project area committee for each project area which is part of the merged project area.

33466. This article shall be applicable only to redevelopment projects of the redevelopment agency of the City of Sacramento for which a final redevelopment plan was adopted by ordinance on or before June 30, 1976.

The Legislature finds and declares that conditions unique to the financing of redevelopment in the City of Sacramento require the granting of authority to merge project areas for purposes of tax-increment financing. These conditions result from the need to replace housing for low- and moderate-income persons. This need results from the substantial reduction of the housing stock for low- and moderate-income persons caused by redevelopment activities undertaken in the City of Sacramento, together with activities undertaken by the State of California in implementing the Capitol Area Plan. The Legislature finds that in order to enable the construction and rehabilitation of badly needed housing for persons and families of low or moderate income in the City of Sacramento, it is necessary that project areas within the City of Sacramento be merged with other noncontiguous project areas within the City of Sacramento for purposes of tax-increment financing.

SEC. 2. Section 33675 is added to the Health and Safety Code, to read:

33675. The amount of taxes allocated to the redevelopment agency pursuant to Section 33670 shall be separately computed for each constituent project area merged into a single project area pursuant to Section 33460, and for the original project area and each separate addition of land to the project area made by amendment of the redevelopment plan pursuant to Section 33450. The section is declaratory of existing law with respect to amendments to redevelopment plans.

04295 287585 746

CHAPTER 1339

An act to amend Section 41056 of, to add Sections 33334.5 and 33413.5 to, and to add Part 6 (commencing with Section 36000) and Part 8 (commencing with Section 37000) to Division 24 of, the Health and Safety Code, relating to redevelopment and housing.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 33334.5 is added to the Health and Safety Code, to read:

33334.5. Every redevelopment plan adopted or amended to expand the project area after the effective date of this section shall contain a provision that whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall, within four years of such destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income an equal number of replacement dwelling units at affordable rents within the project area or within the territorial jurisdiction of the agency, in accordance with all of the provisions of Sections 33413 and 33413.5.

SEC. 2. Section 33413.5 is added to the Health and Safety Code, to read:

33413.5. Prior to the execution of an agreement for acquisition of real property, or the execution of an agreement for the disposition and development of property, or the execution of an owner participation agreement, which agreement would lead to the destruction or removal of dwelling units from the low- and moderate-income housing market, the agency shall adopt by resolution a replacement housing plan. The replacement housing plan shall include (1) the general location of housing to be rehabilitated, developed, or constructed pursuant to Section 33413, (2) an adequate means of financing such rehabilitation, development, or construction, and (3) a finding that the replacement housing does not require the approval of the voters pursuant to Article XXXIV of the California Constitution, or that such approval has been obtained. A dwelling unit whose replacement is required by Section 33413 but for which no replacement housing plan has been prepared, shall not be destroyed or removed from the low- and moderate-income housing market until the agency has by resolution adopted a replacement housing plan.

Nothing in this section shall prevent an agency from destroying or removing from the low- and moderate-income housing market a

04473 287620 753

dwelling unit which the agency owns and which is an immediate danger to health and safety. The agency shall, as soon as practicable, adopt by resolution a replacement housing plan with respect to such dwelling unit.

SEC. 2.5. Part 6 (commencing with Section 36000) is added to Division 24 of the Health and Safety Code, to read:

PART 6. VALIDATION PROCEDURES

36000. The Legislature finds and declares that new forms of cooperation with the private sector, such as leased housing, disposition of real property acquired through redevelopment, rehabilitation assistance, replacement housing, development approvals, property tax exemptions, and relocation assistance may involve close participation with the private sector in meeting housing needs, without amounting to the development, construction, or acquisition of low-rent housing projects as contemplated in Article XXXIV of the State Constitution.

36001. The Legislature further finds that certainty as to the validity of actions previously taken by state public bodies, as well as the actions to be taken in the future, requires the validation of actions previously taken and the establishment of means for determining the validity of those actions to be taken in the future.

36002. When used in this part:

(a) "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 this division, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of this division, 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.

(b) "Persons of low income" means persons and families who lack the amount of income which is necessary (as determined by the local public entity) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings without overcrowding.

(c) "State public body" has the same meaning as defined in Article XXXIV of the State Constitution.

36003. An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of the action of a local public entity in giving preliminary or final approval to a proposal or application which may result in housing assistance benefiting persons of low income without obtaining prior referendum approval pursuant to Article XXXIV of the State Constitution.

36004. No action attacking or otherwise questioning a contract of financial assistance for, or the acquisition, construction or development of, a low-rent housing project for which final approval

or a legally binding commitment was given by the governing body of a state public body or local public entity prior to August 20, 1976, may be brought on the grounds of failure to obtain referendum approval pursuant to Article XXXIV of the State Constitution, except as to low-rent housing projects owned in fee by local housing authorities pursuant to the Housing Authorities Law, Chapter 1 (commencing with Section 34200) of Part 2, and farm labor centers developed after January 14, 1972, pursuant to the Farm Labor Centers Law, Part 7 (commencing with Section 36050) of this division.

36005. No judicial action attacking or otherwise questioning the validity of the action of a local public entity in giving final approval to a proposal or application which may result in housing assistance benefiting persons of low income without obtaining prior approval pursuant to Article XXXIV of the State Constitution shall be brought prior to the adoption of a resolution or ordinance by the legislative body of the local public entity approving the proposal or application, nor may any such action be brought at any time after 60 days from the date of adoption of the ordinance or resolution approving the proposal.

SEC. 3. Part 8 (commencing with Section 37000) is added to Division 24 of the Health and Safety Code, to read:

PART 8. PUBLIC HOUSING ELECTION IMPLEMENTATION LAW

37000. The Legislature finds and declares that Article XXXIV of the State Constitution was approved by the voters for the purpose of providing a mechanism for expressing community concern regarding the development, acquisition, or construction of federally subsidized conventional public housing projects. Such developments typically were different from and inconsistent with housing developments provided by the private sector. Such differences included architecture, design, and locational standards as well as the level of amenities provided. Such developments were occupied entirely by persons of low income, and usually were not subject to ad valorem property taxes.

The Legislature finds and declares that new forms of housing assistance can provide housing for persons of low income in a manner consistent with and supportive of optimum community improvement. Such forms of housing assistance may allow for mixed income occupancy in developments representative of and competitive with similar market rate developments provided by the private sector. Such mixed income developments are frequently comparable to market rate projects in terms of architecture, design, and locational standards as well as the level of amenities provided, and may be subject to ad valorem property taxes.

Recognizing that new forms of housing assistance provide new approaches for housing persons of low income, it is the intent of the

Legislature in enacting Section 37001 to clarify ambiguities relating to the scope of the applicability of Article XXXIV which now exist. Therefore, and pursuant to Section 2 of Article XXXIV, this part is enacted in order to facilitate the operation of Article XXXIV and is consistent with the provisions of that article.

The terms "state public body" and "persons of low income" as used in this part have the same meaning as in Article XXXIV.

37001. The term "low-rent housing project" as defined in Section 1 of Article XXXIV of the State Constitution, does not apply to any development composed of urban or rural dwellings, apartments, or other living accommodations, which meets either of the following criteria:

(a) (1) The development is privately owned housing, receiving no ad valorem property tax exemption not fully reimbursed to all taxing entities; and (2) not more than 49 percent of the dwellings, apartments, or other living accommodations of such development may be occupied by persons of low income; or

(b) The development is privately owned housing, is not exempt from ad valorem taxation by reason of any public ownership, and is not financed with direct long-term public lending.

37002. 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. 4. Section 41056 of the Health and Safety Code is amended to read:

41056. "Persons and families of low or moderate income" means persons and families whose income does not exceed 120 percent of 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 permit higher income limitations in designated geographic areas of the state, upon a determination that 120 percent of the median income in the particular geographic area is too low to qualify a substantial number of persons and families of low or moderate income who can afford rental or home purchase of housing financed pursuant to Part 3 (commencing with Section 41300) without subsidy.

"Persons and families of low or moderate income" includes very low income households, as defined in Section 41067, and includes persons of low income, persons and families of moderate income, and middle-income families. As used in this division:

(a) "Persons of low income" means persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of housing financed pursuant to this division.

(b) "Persons and families of moderate income" or "middle-income families" means persons and families of low or moderate income whose income exceeds 80 percent of the area

median income.

As used in this section, "area median income" means the median household income of a geographic area of the state, as adjusted for family size, as determined by the agency. Nothing in this section shall prevent the agency from adopting federal estimates of area median income, or federal formulas for adjustment of area median income for family size in determining area median income.

CHAPTER 1340

An act to add Section 12403.7 to the Penal Code, relating to tear gas.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 12403.7 is added to the Penal Code, to read:

12403.7. (a) Notwithstanding any other provision of law, any person may purchase, possess or use tear gas and tear gas weapons for the projection or release of tear gas if such tear gas and tear gas weapons are approved by the Department of Justice and are used solely for self-defense purposes, subject to the following requirements:

(1) No person convicted of a felony shall purchase, possess, or use tear gas or tear gas weapons.

(2) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

(3) (i) No person shall purchase, possess or use any tear gas weapon which expels a projectile, or which expels the tear gas by any method other than an aerosol spray, or which is of a type, or size of container, other than authorized by regulation of the Department of Justice.

(ii) The department, with the cooperation of the State Department of Health, shall develop standards and promulgate regulations regarding the type of tear gas and tear gas weapons which may lawfully be purchased, possessed, and used pursuant to this section.

(iii) The regulations of the department shall include a requirement that every mace container and tear gas weapon which may be lawfully purchased, possessed, and used pursuant to this section have a label affixed which states: "WARNING: The use of this substance or device for any purpose other than self-defense is a felony under California law. The contents are dangerous—use with care."

(4) (i) No person shall purchase, possess or use any tear gas or any tear gas weapon who has not completed a course certified by the

Department of Justice in the use of tear gas and tear gas weapons pursuant to which a card is issued identifying the person who has completed such a course. Such a course may be taken in any training facility certified by the Commission on Peace Officer Standards and Training to offer such training. Such a training facility is authorized to charge a fee covering the actual cost of such training.

(ii) The Department of Justice, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the use of tear gas and tear gas weapons.

(5) No person shall purchase, possess or use any tear gas or tear gas weapon if such person has not been issued a permit by the police chief or sheriff having jurisdiction over the person's place of legal residence. The police chief or sheriff shall issue a permit to any person who has completed the course of training specified in paragraph (4), who is not a minor, and who has not been convicted of a felony. The police chief or sheriff may charge a fee covering the actual cost of processing the application which shall also include the fee charged by the Department of Justice for noncriminal fingerprint card processing. The valid permit shall be carried on the person when carrying tear gas or tear gas weapons and shall be presented for examination to the vendor from whom any tear gas or tear gas weapons are purchased. The sale of tear gas or tear gas weapons by a vendor to a person who fails to present an identifying permit is a violation of Section 12420.

(6) Any person who has a valid permit, who uses tear gas or tear gas weapons except in self-defense or as authorized for training purposes by the department is guilty of a public offense and is punishable by imprisonment in a state prison not exceeding one year and one day or in a county jail not to exceed one year or by fine not to exceed one thousand dollars ($1,000) or by both such fine and imprisonment.

(7) No person shall purchase, possess, or use any tear gas or tear gas weapon pursuant to this section prior to July 1, 1977.

SEC. 2. Section 12403.7 is added to the Penal Code, to read:

12403.7. (a) Notwithstanding any other provision of law, any person may purchase, possess or use tear gas and tear gas weapons for the projection or release of tear gas if such tear gas and tear gas weapons are approved by the Department of Justice and are used solely for self-defense purposes, subject to the following requirements:

(1) No person convicted of a felony shall purchase, possess, or use tear gas or tear gas weapons.

(2) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

(3) (i) No person shall purchase, possess or use any tear gas weapon which expels a projectile, or which expels the tear gas by any method other than an aerosol spray, or which is of a type, or size of container, other than authorized by regulation of the Department of Justice.

(ii) The department, with the cooperation of the State Department of Health, shall develop standards and promulgate regulations regarding the type of tear gas and tear gas weapons which may lawfully be purchased, possessed, and used pursuant to this section.

(iii) The regulations of the department shall include a requirement that every mace container and tear gas weapon which may be lawfully purchased, possessed, and used pursuant to this section have a label which states: "WARNING: The use of this substance or device for any purpose other than self-defense is a felony under California law. The contents are dangerous—use with care."

(4) (i) No person shall purchase, possess or use any tear gas or any tear gas weapon who has not completed a course certified by the Department of Justice in the use of tear gas and tear gas weapons pursuant to which a card is issued identifying the person who has completed such a course. Such a course may be taken in any training facility certified by the Commission on Peace Officer Standards and Training to offer such training. Such a training facility is authorized to charge a fee covering the actual cost of such training.

(ii) The Department of Justice, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the use of tear gas and tear gas weapons.

(5) No person shall purchase, possess or use any tear gas or tear gas weapon if such person has not been issued a permit by the police chief or sheriff having jurisdiction over the person's place of legal residence. The police chief or sheriff shall issue a permit to any person who has completed the course of training specified in paragraph (4), who is not a minor, and who has not been convicted of a felony. The police chief or sheriff may charge a fee covering the actual cost of processing the application which shall also include the fee charged by the Department of Justice for noncriminal fingerprint card processing. The valid permit shall be carried on the person when carrying tear gas or tear gas weapons and shall be presented for examination to the vendor from whom any tear gas or tear gas weapons are purchased. The sale of tear gas or tear gas weapons by a vendor to a person who fails to present an identifying permit is a violation of Section 12420.

(6) Any person who has a valid permit, who uses tear gas or tear gas weapons except in self-defense or as authorized for training purposes by the department is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by fine not to exceed one thousand dollars ($1,000) or by both such fine and imprisonment.

(7) No person shall purchase, possess, or use any tear gas or tear gas weapon pursuant to this section prior to July 1, 1977.

SEC. 3. It is the intent of the Legislature if both this bill and Senate Bill No. 42 are both chaptered and become effective January

1, 1977 that Section 2 of this act shall become operative and Section 1 of this act shall not 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 self-financing authority is provided in this act to cover such costs.

CHAPTER 1341

An act to amend Sections 41008, 41028, 41030, 41040, 41053.5, 41125, 41304, 41305, 41309, 41313, 41333, 41334, 41339, 41360, 41364, 41365.5, 41388, 41402, 41476, 41480, 41496, 41497, 41499, 41554, 41555, 41700, 41703, 41704, 41708, 41713, 41714, 41715, and 42064 of, and to add Sections 41045.5, 41053.7, 41061, 41315, 41701, and 41716.5 to, the Health and Safety Code, relating to housing and community development.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 41008 of the Health and Safety Code is amended to read:

41008. (a) Nothing in this division shall authorize the imposition of controls on rents for housing units not financed pursuant to this division.

(b) Housing units owned, financed, insured, or otherwise assisted by the agency pursuant to this division and which are controlled as to rents by a regulatory contract between the agency and the housing sponsor shall not be subject to controls on rent imposed by any state or local agency or other local public entity. The right to control rent on such units shall reside exclusively in the agency to the extent provided in this section.

SEC. 2. Section 41028 of the Health and Safety Code is amended to read:

41028. "Bonds" means bonds, notes (including bond anticipation notes and construction loan notes), debentures, interim or other certificates, or other evidences of financial indebtedness issued by the agency pursuant to Part 3 (commencing with Section 41300) of this division.

SEC. 3. Section 41030 of the Health and Safety Code is amended to read:

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 or loan-insurance assistance within a neighborhood preservation area, under the provisions of Chapter 6 (commencing with Section 41550) of Part 3 of this division or under

Part 5 (commencing with Section 42000) of this division, with opportunities to be involved in planning and carrying out the financing or loan-insurance assistance program. "Citizen participation" shall include, but not be limited to, all of the following and in the order provided below:

(a) Holding a public meeting prior to the hearing by the local public entity considering selection of the area for designation as a neighborhood preservation area.

(b) Consultation with an elected or appointed citizen advisory board, composed of representatives of both owners of property in, and residents of, a proposed neighborhood preservation area, in developing a plan for public improvements and the rules and regulations for implementation of the proposed assistance program.

(c) Dissemination at least seven days prior to the original hearing by mailing to property owners within the proposed neighborhood preservation area at the address shown on the latest assessment roll and by distributing to residents of the proposed neighborhood preservation 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 assistance 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 public entity may be implemented.

In lieu of initiating a new process of citizen participation, local public entities which have conducted or are conducting a citizen-participation process as part of an existing housing and community development program, may substitute such citizen-participation process if the board approves such process as meeting the requirements of this section.

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.

SEC. 4. Section 41040 of the Health and Safety Code is amended to read:

41040. "Guaranteed taxable bonds" means bonds secured by a pledge of the full faith and credit of the United States for the payment of the principal and interest on bonds issued under the authority of this division and on which the interest is not exempted from federal income taxes. Where the federal guarantees are for less than 75 percent of the liability, municipal, state, or private guarantees, bond insurance, or mortgage insurance shall be obtained in order that the amount of all such guarantees aggregate not less than 75 percent of the principal and interest on such bonds.

SEC. 5. Section 41045.5 is added to Chapter 2 (commencing with Section 41020) of Part 1 of Division 31 of the Health and Safety Code, to read:

41045.5. "Local agency" means a city, county, or city and county, and includes any governmental agency or local public entity to which such city, county, or city and county may, after a public hearing, delegate functions under this division.

SEC. 6. Section 41053.5 of the Health and Safety Code is amended to read:

41053.5. "Neighborhood improvement loan" means a loan made for rehabilitation and improvement of a structure in a neighborhood preservation 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.

SEC. 7. Section 41053.7 is added to Chapter 2 (commencing with Section 41020) of Part 1 of Division 31 of the Health and Safety Code, to read:

41053.7. "Neighborhood preservation area" means any concentrated rehabilitation area, scattered-site rehabilitation area, or mortgage assistance area.

SEC. 8. Section 41061 is added to the Health and Safety Code, to read:

41061. "Rehabilitation standards" means applicable state or local building or housing standards adopted pursuant to the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13, or continued in effect pursuant thereto.

SEC. 8.5. Section 41125 of the Health and Safety Code is amended to read:

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 on or before February 1, 1977, 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).

SEC. 9. Section 41304 of the Health and Safety Code is amended to read:

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, except as otherwise provided in this section. 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 vote on any matter in which the member has a financial interest.

A member who has a financial interest in a housing sponsor or a housing development financed by the agency shall disclose the financial interest in open public meeting at the time matters concerning such a housing sponsor or housing development are raised. A member having such an interest may not participate in the deliberations and may not vote on any matters concerning a housing sponsor or housing development in which he has an 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.

SEC. 10. Section 41305 of the Health and Safety Code is amended to read:

41305. (a) 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.

(d) Notwithstanding the provisions of this section and Section 41304, any conflict of interest by a member of the board or officer or employee of the agency shall not affect the validity of any bonds or insurance issued pursuant to this division.

SEC. 11. Section 41309 of the Health and Safety Code is amended to read:

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 or a meeting of a committee 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.

SEC. 12. Section 41313 of the Health and Safety Code is amended to read:

41313. (a) The board shall authorize any sale of obligations or securities or other debt obligations and shall approve other major contractual agreements. Any other contractual agreements or debt obligations may be approved by the president pursuant to regulations of the board.

(b) Actions of the board may be taken only by a concurrence of a majority of the entire membership thereof, excepting nonvoting ex officio members.

SEC. 12.5. Section 41315 is added to the Health and Safety Code, to read:

41315. All meetings of the board and of all committees of the

4 1997 28 8 175 792

board including those committees whose membership constitutes less than a quorum of the board shall be open and public and all persons shall be permitted to attend, except when such meetings are held as executive sessions as authorized by Section 11126 of the Government Code.

SEC. 13. Section 41333 of the Health and Safety Code is amended to read:

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 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.

SEC. 14. Section 41334 of the Health and Safety Code is amended to read:

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 owned by the agency under the provisions of this division or upon the income therefrom, other than real property taxes or assessments on a housing development

owned by the agency. 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.

SEC. 15. Section 41339 of the Health and Safety Code is amended to read:

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; and provided further that this section shall not authorize any action contesting or affecting the validity or enforceability of any bonds or insurance issued under this division or of any of the proceedings of, or actions taken by, the agency relative to such bonds or insurance.

SEC. 16. Section 41360 of the Health and Safety Code is amended to read:

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, or the provisions of Sections 11032 and 11033 of the Government Code, 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, and redemption premiums 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.

SEC. 17. Section 41364 of the Health and Safety Code is amended to read:

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, redemption premium, and sinking funds of any bonds of the agency and the direct payment of principal, interest, redemption premium, and sinking funds on the bonds of the agency.

SEC. 18. Section 41365.5 of the Health and Safety Code is amended to read:

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 is notified by the trustee in writing that moneys of the agency will not be sufficient to meet principal payments, sinking fund payments, and interest payments on bonds authorized under Chapter 7 (commencing with Section 41700) of this part and to restore and maintain the bond reserve funds provided for in Section 41713; provided, however, that no such certification need be made unless such insufficiency will result in an event of default under the respective bond resolution authorizing such bonds.

SEC. 19. Section 41388 of the Health and Safety Code is amended to read:

41388. The agency may make and execute contracts with qualified mortgage lenders for the initiation or servicing of mortgage loans, construction loans, neighborhood improvement loans, 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.

SEC. 20. Section 41402 of the Health and Safety Code is amended to read:

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, subject to an agreement where the borrower has agreed to conform to rehabilitation standards within a time and in a manner specified by the agency, 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.

SEC. 21. Section 41476 of the Health and Safety Code is amended to read:

41476. In rural mortgage areas 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 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.

SEC. 22. Section 41480 of the Health and Safety Code is amended to read:

41480. With respect to each class of housing sponsor as defined by the agency, 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 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.

SEC. 23. Section 41496 of the Health and Safety Code is amended to read:

41496. (a) 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.

(b) The agency shall actively and aggressively pursue all available

federal housing programs and utilize fully all available subsidies in order to achieve the purposes of this section.

SEC. 24. Section 41497 of the Health and Safety Code is amended to read:

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 (a) at least 25 percent of the units so available, and (b) at least 25 percent of the units thereafter financed so available.

SEC. 25. Section 41499 of the Health and Safety Code is amended to read:

41499. Nothing in this part, including Section 41332, 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.

SEC. 25.3. Section 41554 of the Health and Safety Code is amended to read:

41554. In addition, 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.

"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.

SEC. 25.5. Section 41555 of the Health and Safety Code is amended to read:

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.

SEC. 26. Section 41700 of the Health and Safety Code, as added by Chapter 1 of the Statutes of 1975 (First Extraordinary Session), is amended to read:

41700. (a) The agency may from time to time, after action of the Housing Bond Credit Committee as provided in Section 41707, issue its negotiable bonds in such principal amount as the agency shall determine to be necessary to provide sufficient funds for financing housing developments and other residential structures and for the payment of interest on bonds of the agency, establishment of reserves to secure such bonds, and other expenditures of the agency incident to, and necessary or convenient to, issuance of such bonds.

(b) Sale of the bonds of the agency shall be coordinated by the State Treasurer. To obtain a date for the sale 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 can be sold. 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 Housing Bond Credit Committee shall exercise its powers with due regard for the right of the holders of bonds of the agency at any time outstanding, and nothing in, or done pursuant to, this section shall in any way limit, restrict, or alter the obligation or powers of the agency or any member, officer, or representative of the agency or the State Treasurer to carry out and perform in every detail each and every covenant, agreement, or contract at any time made or entered into on behalf of the agency with respect to its bonds or its benefits, or the security of the holders thereof.

(c) 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, or in lieu thereof and in the discretion of the agency, nonguaranteed bonds in addition to those authorized by the preceding sentence, to be issued by the agency may be authorized in an amount not exceeding one hundred fifty million dollars ($150,000,000).

SEC. 27. Section 41701 is added to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code, to read:

41701. 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 presently are or 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 presently or are expected to be insured or guaranteed in whole or in part by an agency of the state, including the California Housing Finance Agency, a political subdivision of the state, or by a private insuring entity authorized to engage in such business, or by any combination thereof, in percentages determined by the agency.

(e) Housing developments and other residential structures, the mortgage loans on which are presently or are expected to be insured in whole or in part by the Federal Housing Administration or guaranteed in whole or in part by the United States Veterans Administration or by the Farmers Home Administration of the United States Department of Agriculture in percentages determined by the agency.

(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 at least equals either the average annual debt service or the maximum annual interest on the bonds issued.

SEC. 28. Section 41703 of the Health and Safety Code, as added by Chapter 1 of the Statutes of 1975 (First Extraordinary Session), is amended to read:

41703. The bonds shall be authorized by resolution or resolutions of the agency, shall be in such form, 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, be subject to such terms of redemption and contain such terms and conditions 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, above, or below the par value, on such terms and conditions and for such consideration in such medium of payment as the agency shall determine by resolution prior to the sale.

SEC. 29. Section 41704 of the Health and Safety Code, as added by Chapter 1 of the Statutes of 1975 (First Extraordinary Session), is amended to read:

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, and providing for or 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. 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.

SEC. 30. Section 41708 of the Health and Safety Code is amended to read:

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. Notwithstanding any other provision of law, the State Treasurer shall not be deemed to have a conflict of interest by reason of acting as trustee pursuant to this division.

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.

SEC. 31. Section 41713 of the Health and Safety Code is amended to read:

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 minimum 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 minimum bond reserve fund requirement for such fund.

In computing the amount of bond reserve funds for purposes 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.

SEC. 32. Section 41714 of the Health and Safety Code is amended to read:

41714. The agency shall not at any time issue bonds if, upon issuance of the bonds, the amount in any bond reserve fund, established pursuant to Section 41713 to secure such bonds or any previous issuance of bonds so secured by such bond reserve fund, 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 minimum bond reserve fund requirement for such fund. For the purposes of this chapter, the term "minimum bond reserve fund requirement" shall mean, as of any particular date of computation, the amount, 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.

SEC. 33. Section 41715 of the Health and Safety Code is amended to read:

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 known 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, interest, redemption premium, 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, principal, 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.

SEC. 34. Section 41716.5 is added to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code, to read:

41716.5. In addition to the authority otherwise contained in this division to issue notes in anticipation of the sale of bonds, the agency may issue negotiable bond anticipation notes and negotiable construction loan notes and may renew such notes from time to time. Bond anticipation notes may be paid from the proceeds of sale of the bonds of the agency in anticipation of which they were issued. Construction loan notes may be paid from the proceeds of permanent loans. Bond anticipation notes and construction loan notes and agreements relating thereto and the resolution or resolutions authorizing such notes and agreements may contain any provisions, conditions, or limitations which a bond, agreement

relating thereto, or bond resolution of the agency may contain.

SEC. 35. Section 42064 of the Health and Safety Code 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 subdivision (h) of Section 41551.

(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. 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.

CHAPTER 1342

An act to amend Sections 41030, 41053.5, 41308, 41391, 41550, 41551, 41552, 41553, 41715, 42001, 42033, 42036, 42046, 42062, 42063, 42064, 42065, and 42068 of, to amend the heading of Chapter 3 (commencing with Section 42045) of Part 5 of Division 31 of, to amend and renumber Sections 41535, 41557, 41559, 42008, 42009, 42010, 42012, 42017, 42018, and 42050 of, to add Sections 41031.5, 41044.5, 41045.5, 41051.7, 41053.7, 41061, 41065, 41315, 41551.5, 41551.7, 41554.5, and 42048 to, and to repeal Sections 41556, 42007, 42011, 42013, 42014, 42015, 42016, 42019, 42047, 42048, and 42049 of, the Health and Safety Code, relating to housing and community development, and making an appropriation therefor.

[Approved by Governor September 29, 1976 Filed with

Secretary of State September 30, 1976]

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

SECTION 1. Section 41030 of the Health and Safety Code is amended to read:

41030. "Citizen participation" means action by the local agency that is approved by the agency as sufficient to provide persons who will be affected by financing or loan insurance assistance within a neighborhood preservation area, under the provisions of Chapter 6 (commencing with Section 41550) of Part 3 of this division or under Part 5 (commencing with Section 42000) of this division, with opportunities to be involved in planning and carrying out the financing or loan insurance assistance program. "Citizen participation" shall include, but not be limited to, all of the following and in the order provided below:

(a) Holding a public meeting prior to the hearing by the legislative body considering selection of the area for designation as a neighborhood preservation area.

(b) Consultation with an elected or appointed citizen advisory board, composed of representatives of both owners of property in, and residents of, a proposed neighborhood preservation area, in developing a plan for public improvements and the rules and regulations for implementation of the proposed assistance program.

(c) Dissemination at least seven days prior to the original hearing by mailing to property owners within the proposed neighborhood preservation area at the address shown on the latest assessment roll and by distributing to residents of the proposed neighborhood preservation area by a manner determined appropriate by the local agency, of information relating to the time and location of the hearing, boundaries of the proposed area, and a general description of the proposed assistance program.

In addition to the requirements of subdivisions (a) to (c), inclusive, any other means of citizen involvement determined appropriate by the legislative body may be implemented.

In lieu of initiating a new process of citizen participation, local agencies which have conducted or are conducting a citizen-participation process as part of an existing housing and community development program, may substitute such citizen-participation process if the board approves such process as meeting the requirements of this section.

Public meetings and consultations held to implement the requirements of citizen participation shall be conducted by a planning or rehabilitation official designated by the legislative body. Public meetings shall be held at times and places convenient to residents and property owners.

SEC. 2. Section 41031.5 is added to Chapter 2 (commencing with Section 41020) of Part 1 of Division 31 of the Health and Safety Code, to read:

41031.5. "Concentrated rehabilitation area" means an area characterized by substantial deterioration of residential structures and which is designated by the agency pursuant to Section 41551.

SEC. 3. Section 41044.5 is added to Chapter 2 (commencing with Section 41020) of Part 1 of Division 31 of the Health and Safety Code, to read:

41044.5. "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

SEC. 4. Section 41045.5 is added to Chapter 2 (commencing with Section 41020) of Part 1 of Division 31 of the Health and Safety Code, to read:

41045.5. "Local agency" means a city, county, or city and county, and includes any governmental agency or local public entity to which such city, county, or city and county may, after a public hearing, delegate functions under this division.

SEC. 5. Section 41051.7 is added to Chapter 2 (commencing with Section 41020) of Part 1 of Division 31 of the Health and Safety Code, to read:

41051.7. "Mortgage assistance area" means an area characterized by a deficiency of available mortgage financing but in which general deterioration of residential structures has not occurred, and which is designated by the agency pursuant to Section 41551.7.

SEC. 6. Section 41053.5 of the Health and Safety Code is amended to read:

41053.5. "Neighborhood improvement loan" means a loan made for rehabilitation and improvement of a structure in a neighborhood preservation 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.

SEC. 6.5. Section 41053.7 is added to Chapter 2 (commencing with Section 41020) of Part 1 of Division 31 of the Health and Safety Code, to read:

41053.7. "Neighborhood preservation area" means any concentrated rehabilitation area, scattered-site rehabilitation area, or mortgage assistance area.

SEC. 7. Section 41061 is added to Chapter 2 (commencing with Section 41020) of Part 1 of Division 31 of the Health and Safety Code, to read:

41061. "Rehabilitation standards" means applicable state or local building or housing standards adopted pursuant to the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13, or continued in effect pursuant thereto.

SEC. 8. Section 41065 is added to Chapter 2 (commencing with Section 41020) of Part 1 of Division 31 of the Health and Safety Code, to read:

41065. "Scattered-site rehabilitation area" means an area that is declining and contains some deterioration of residential structures and which is designated by the agency pursuant to Section 41551.5.

SEC. 8.2. Section 41308 of the Health and Safety Code is

amended to read:

41308. The Governor shall, subject to confirmation by the Senate, 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.

SEC. 8.5. Section 41315 is added to Chapter 1 (commencing with Section 41300) of Part 3 of Division 31 of the Health and Safety Code, to read:

41315. All meetings of the board and of all committees of the board shall be open to the public and all persons shall be permitted to attend, except when such meetings are held as executive sessions as authorized by Section 11126 of the Government Code.

SEC. 9. Section 41391 of the Health and Safety Code is amended to read:

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 neighborhood preservation 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 or loan insurance is made available by the agency in such an area.

SEC. 10. Section 41550 of the Health and Safety Code is amended to read:

41550. This chapter empowers the agency to designate

neighborhood preservation areas, and to enter into agreements with local agencies. It does not limit agency powers to provide construction loans and mortgage loans as provided in Chapter 5 (commencing with Section 41450) of this part.

SEC. 12. Section 41551 of the Health and Safety Code is amended to read:

41551. Upon application by a local agency supplying such supporting information and data as the agency may require, the agency may designate an area within a city or county as a concentrated rehabilitation area if it makes the following findings:

(a) The area was selected by the legislative body after citizen participation.

(b) The area is an area of substantial deterioration of residential structures, as evidenced by 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 enforcement of rehabilitation standards.

(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 agency 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 rehabilitation standards in such area.

(g) The local agency has agreed to 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 agency has adopted a housing element in compliance with Section 65302 of the Government Code, and 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).

(k) The local agency has satisfied such other pertinent criteria as the agency may by regulation require.

SEC. 13. Section 41551.5 is added to Chapter 6 (commencing with Section 41550) of Part 3 of Division 31 of the Health and Safety Code, to read:

41551.5. Upon the application of a local agency supplying such supporting information and data as the agency may require, the agency may designate all or a portion of the territory subject to the jurisdiction of the local agency as a scattered-site rehabilitation area if it makes the following findings:

(a) The area was selected by the legislative body after citizen participation.

(b) The area is an area which is declining and contains some deterioration of residential structures, but deteriorating residential structures within the proposed area are not suitable for concentrated enforcement of rehabilitation standards because of their dispersed location.

(c) Enforcement of rehabilitation standards 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 financing or loan insurance assistance and, in connection therewith, priorities which will serve the purposes of this part while providing a program which is economically feasible.

(f) The local agency 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 systematic and continuing enforcement of state and local housing and building standards in such area.

(g) The local agency has agreed to 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 local agency has satisfied such other pertinent criteria as the agency may by regulation require.

SEC. 14. Section 41551.7 is added to Chapter 6 (commencing with Section 41550) of Part 3 of Division 31 of the Health and Safety Code, to read:

41551.7. The agency may designate a mortgage assistance area, after soliciting maximum feasible participation by community organizations, if it makes the following findings:

(a) It is an area (1) where deterioration has not progressed to the stage where there is a substantial number of residential structures which do not conform to rehabilitation standards, or (2) where a program of concentrated code enforcement has been conducted previously.

(b) There is a recent history of mortgage deficiency in the area.

(c) Agency activity in the area is likely to prevent or arrest deterioration in the area.

(d) Agency activity in the area is economically feasible.

(e) Agency activity in the area will inure primarily to the benefit of persons and families of low and moderate income.

(f) The area was selected by the legislative body after citizen participation.

(g) The local agency in which the area is located has given substantial assurances acceptable to the agency that it will provide those supporting neighborhood public improvements and services determined appropriate by the agency.

SEC. 15. Section 41552 of the Health and Safety Code is amended to read:

41552. Upon approval of an application for designation of an area as a concentrated rehabilitation area or a scattered-site rehabilitation area, the agency may, with respect to such area, do any one of the following:

(a) Enter into an agreement with the applicant local agency or another 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 applicant local agency or another local public entity for a program of rehabilitation assistance as provided in Section 41553 or 41554, or both, to be administered by the local agency or other local public entity; or

(c) Enter into an agreement with the local agency 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).

In addition, or instead, the agency may provide loan insurance assistance in such areas, which may include insurance of loans provided pursuant to this chapter or of other loans or bonds as provided in Part 5 (commencing with Section 42000) of this division.

SEC. 16. Section 41553 of the Health and Safety Code is amended to read:

41553. Financing assistance for housing developments in concentrated rehabilitation areas and scattered-site rehabilitation areas may 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.

SEC. 17. Section 41554.5 is added to the Health and Safety Code, to read:

41554.5. Financing assistance may include mortgage loans for the acquisition of housing developments in any mortgage assistance area, or any other neighborhood preservation area which the agency finds to be mortgage deficient.

SEC. 18. Section 41555 of the Health and Safety Code is amended and renumbered to read:

41557. 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.

SEC. 19. Section 41556 of the Health and Safety Code is repealed.

SEC. 20. Section 41557 of the Health and Safety Code is amended and renumbered to read:

41555. In a mortgage assistance area, the agency may administer programs of neighborhood improvement loans pursuant to Section 41554 and mortgage and construction loans authorized under Sections 41553 and 41554.5 in a manner consistent with Chapter 5 (commencing with Section 41450) of this part.

In addition, or instead, the agency may provide loan insurance assistance in such areas, which may include insurance of loans provided pursuant to this chapter or of other loans or bonds as provided in Part 5 (commencing with Section 42000) of this division.

SEC. 21. Section 41559 of the Health and Safety Code is amended and renumbered to read:

41558. 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.

SEC. 21.5. Section 41715 of the Health and Safety Code is amended to read:

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 known 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, principal 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, except owner-occupied housing developments, 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.

SEC. 22. Section 42001 of the Health and Safety Code is amended to read:

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 housing developments located in neighborhood preservation areas.

SEC. 23. Section 42007 of the Health and Safety Code is repealed.

SEC. 24. Section 42008 of the Health and Safety Code is amended and renumbered to read:

42007. "Insurance Fund" means the Housing Rehabilitation Insurance Fund.

SEC. 25. Section 42009 of the Health and Safety Code is amended and renumbered to read:

42008. "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.

SEC. 26. Section 42010 of the Health and Safety Code is amended and renumbered to read:

42009. "Insured loan" means a loan insured pursuant to Chapter 4 (commencing with Section 42060) of this part.

SEC. 27. Section 42011 of the Health and Safety Code is repealed.

SEC. 28. Section 42012 of the Health and Safety Code is amended and renumbered to read:

42010. "Loan-to-value limitation" means a limitation on the ratio of the original principal balance of a loan to the appraised value, including the estimated costs of repair and rehabilitation and sale if any, of the property securing it.

SEC. 29. Section 42013 of the Health and Safety Code is repealed.

SEC. 30. Section 42014 of the Health and Safety Code is repealed.

SEC. 31. Section 42015 of the Health and Safety Code is repealed.

SEC. 32. Section 42016 of the Health and Safety Code is repealed.

SEC. 33. Section 42017 of the Health and Safety Code is amended and renumbered to read:

42011. "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 by regulation, to carry out rehabilitation with loans insured pursuant to this part.

SEC. 34. Section 42018 of the Health and Safety Code is amended and renumbered to read:

42012. "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.

SEC. 35. Section 42019 of the Health and Safety Code is repealed.

SEC. 35.5. Section 42033 of the Health and Safety Code is amended to read:

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 loan insurance 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 loan insurance reserve account has been restored to such requirement.

SEC. 36. Section 42036 of the Health and Safety Code is amended to read:

42036. (a) 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. The insurance of loans or 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.

(b) All contracts of insurance insuring loans or bonds pursuant to this part 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 contract of insurance."

(c) 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.

SEC. 37. The heading of Chapter 3 (commencing with Section 42045) of Part 5 of Division 31 of the Health and Safety Code is amended to read:

CHAPTER 3. PROGRAM PRIORITIES

SEC. 38. Section 42046 of the Health and Safety Code is amended to read:

42046. Until the agency is satisfied that the effectiveness of loan insurance projects conducted in areas designated pursuant to Section 41551.5 has been demonstrated, and in any case prior to January 1, 1978, the aggregate amount of loan insurance provided by the agency in scattered-site rehabilitation areas shall not exceed 10 percent of the aggregate amount of all outstanding loan insurance and loan insurance commitments of the agency provided pursuant to this part.

SEC. 39. Section 42047 of the Health and Safety Code is repealed.

SEC. 40. Section 42048 of the Health and Safety Code is repealed.

SEC. 40.5. Section 42048 is added to Chapter 3 (commencing with Section 42045) of Part 5 of Division 31 of the Health and Safety Code, to read:

42048. Not less than 75 percent of the aggregate amount of loan insurance provided pursuant to this part shall be for loans, all or a portion of which are utilized for rehabilitation pursuant to Section 42062.

SEC. 41. Section 42049 of the Health and Safety Code is repealed.

SEC. 42. Section 42050 of the Health and Safety Code is amended and renumbered to read:

42047. 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.

SEC. 43. Section 42062 of the Health and Safety Code is amended to read:

42062. Loans for the rehabilitation, refinancing, or acquisition of residential structures located in neighborhood preservation areas designated pursuant to Chapter 6 (commencing with Section 41550) of Part 3 of this division 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 or rehabilitation of more than one residential structure with respect to any such area, unless the borrower is a qualified rehabilitator.

SEC. 43.5. Section 42063 of the Health and Safety Code is amended to read:

42063. In addition to insurance of loans authorized by Section 42062, the agency may insure the following types of loans in neighborhood preservation 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.

The agency shall develop and adopt regulations that provide for an equitable sharing of the risk of loss among the agency and all other parties to the loan transaction with respect to loans for acquisition of residential structures insured pursuant to subdivision (a).

SEC. 44. Section 42064 of the Health and Safety Code 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 loan 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 subdivision (h) of Section 41551.

(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. 45. Section 42065 of the Health and Safety Code is amended to read:

42065. (a) The agency shall establish, and may from time to time revise, after public hearings, 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. 46. Section 42068 of the Health and Safety Code is amended to read:

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. The agency may coinsure loans made or originated by approved lending institutions which are otherwise insurable under the provisions of this part.

SEC. 47. The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund for transfer to the Housing Rehabilitation Insurance Fund for carrying out the purposes of Division 31 (commencing with Section 41000) of the Health and Safety Code. At least 25 percent of the moneys appropriated by this section shall be used for loan insurance of loans financing rehabilitation of residential structures.

CHAPTER 1343

An act to amend Sections 34209, 34213.5 and 34292 of, and to add Section 34312.5 to, the Health and Safety Code, relating to housing authorities.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 34209 of the Health and Safety Code is amended to read:

34209. "Area of operation," in the case of a county authority includes all of the county except the area within the territorial boundaries of any city for which an authority has been authorized to transact business. Except as authorized by Section 34312.5, a county authority shall not operate in any city located in the county and in which an authority has not been authorized to transact business unless the consent of the city governing body has been obtained. If an authority of a city within a county becomes empowered to transact business and exercise its powers, a county authority empowered to transact business and exercise its powers has no power to initiate any further project or leased housing within the territorial boundaries of the city, except as provided in Section 34312.5.

SEC. 1.5. Section 34213.5 of the Health and Safety Code is amended to read:

34213.5. "Tenant" means a person of low income lawfully residing in housing provided by or through an authority, including persons residing in leased housing.

A person of low income residing in leased housing is not a tenant of any authority other than the authority contracting with the owner, or the owner if the owner is an authority.

SEC. 2. Section 34292 of the Health and Safety Code is amended to read:

34292. If a housing commission is created as provided in Section 34291, its function shall be to review and make recommendations on all matters to come before the authority prior to authority action, except emergency matters and matters which the commission, by resolution, excludes from its review. The governing body may provide for procedures for review and recommendation, and for further functions of the commission, by ordinance or resolution, and may delegate any of its functions as commission of the housing authority to the housing commission created pursuant to Section 34291.

SEC. 3. Section 34312.5 is added to the Health and Safety Code, to read:

34312.5. An authority may provide leased housing to persons of low income throughout the county in which it operates, except:

(a) No commitment to provide leased housing outside the area of operation may be made in advance of construction without approval of the local governing body of the city or, if an unincorporated area, the county with jurisdiction of the site of construction; and

(b) Leased housing may not be provided within the area of operation of another authority if the local governing body of the other authority disapproves in advance.

CHAPTER 1344

An act to amend Section 21628.5 of the Business and Professions Code, relating to business machines.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 21628.5 of the Business and Professions Code is amended to read:

21628.5. (a) Every business machine dealer shall report all used business machines which he has purchased, taken in trade, or accepted for sale or consignment, from an individual, to the chief of police or to the sheriff in accordance with the provisions of Section 21628 and Section 21630.

Every business machine dealer shall report all used business machines which he has repaired, if required to do so by the chief of police or the sheriff in accordance with the provisions of Section 21628 and Section 21630.

No report of repair shall be required from a dealer servicing or repairing a machine in the possession of the owner to whom that dealer sold that machine when it was new.

(b) As used in this section, the term "business machines" includes, but is not limited to, typewriters, adding machines, check-writing

devices, cash registers, calculators, addressing machines, copying and accounting equipment, letter-sorting and folding devices, and recording equipment, but does not include office furniture or fixtures.

CHAPTER 1345

An act to add Part 10 (commencing with Section 37600) to Division 24 of the Health and Safety Code, relating to rehabilitation of buildings.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Part 10 (commencing with Section 37600) is added to Division 24 of the Health and Safety Code, to read:

PART 10. HISTORICAL REHABILITATION

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

37600. This part shall be known and may be cited as the Marks Historical Rehabilitation Act of 1976.

37601. The Legislature finds and declares that properties and structures of historical or architectural significance are an essential public resource and that it is necessary and essential that cities, counties, and cities and counties be authorized to make long-term, low-interest loans to finance the rehabilitation of properties of historic or architectural significance. Unless local agencies have the authority to provide loans for the rehabilitation of historic properties, many properties of historic or architectural significance will continue to deteriorate at an accelerated rate because loans from private sources are not sufficiently available for their rehabilitation. It shall be the policy of the state to preserve, protect, and restore the historical and architectural resources of the state.

37602. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as defined in subdivision (j), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(b) "Financing" means the lending of money for the purpose of rehabilitation of historical properties and includes refinancing of outstanding indebtedness of the participating party with respect to

42128 289100 905

property which is subject to historical rehabilitation or the purchase of historical properties rehabilitated by a redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(c) "Historical rehabilitation" means the reconstruction, restoration, renovation, or repair of the interiors or exteriors of historical properties or their relocation for the purposes of restoring or preserving their historical or architectural authenticity, preventing their deterioration or destruction, continuing their use, providing for their feasible reuse, or providing for the safety of the occupants or passersby. "Historical rehabilitation" includes, but is not limited to, the repairing of architectural facades or ornamentation; removal of inappropriate additions or materials; replacement of facades, ornamentation, or architectural elements previously removed; repairing of roofs, foundations, and other essential structural elements; or any work done on a historical property in order to comply with rehabilitation standards. "Historical rehabilitation" does not include the purchase, installation, or restoration of furnishings.

(d) "Historical rehabilitation area" is a geographic area, with specific boundaries, which is designated by a local agency as an area in which a historical rehabilitation financing program shall apply. It may encompass the entire jurisdiction of the local agency, or any portions thereof, including single parcels.

(e) "Historical property" means any building or part thereof, object, structure, monument, or collection thereof deemed of importance to the history, architecture, or culture of an area as determined by an appropriate governmental agency. An appropriate governmental agency is a local official historic preservation board or commission, a legislative body of a local agency, or the State Historical Resources Commission. "Historical property" includes objects, buildings, structures, monuments, or collections thereof on existing national, state, or local historical registers or official inventories, such as the National Register of Historic Places and State Historical Landmarks.

(f) "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

(g) "Local agency" means a city, county, city and county, or redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(h) "Participating party" means any person, company, corporation, partnership, firm, local agency, political subdivision of the state, or other entity or group of entities requiring financing for historical rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provisions of this part.

(i) "Rehabilitation standards" means the applicable local or state standards for the rehabilitation of historical properties, including any higher standards adopted by the local agency as part of its historical

rehabilitation financing program and including standards established pursuant to Part 2.7 (commencing with Section 18950) of Division 13.

(j) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the local agency from the financing of historical rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

37603. The local agency on request shall submit information regarding its programs to the State Historic Preservation Officer.

CHAPTER 2. POWERS AND PROCEDURES

37620. The local agency may issue bonds and bond anticipation notes of the local agency for the purpose of financing historical rehabilitation authorized by this part and for the purpose of funding or refunding such bonds or notes.

37621. The local agency may fix fees, charges, and interest rates for financing historical rehabilitation and may from time to time revise such fees, charges, and interest rates to reflect changes in interest rates on the local agency's bonds, losses due to defaults, changes in loan servicing charges, or other expenses related to administration of the historical rehabilitation financing program. Any change in the interest rate shall conform to the provisions of Section 1916.5 of the Civil Code, except that paragraph (3) of subdivision (a) of Section 1916.5 shall not apply and that the "prescribed standard" specified in Section 1916.5 shall be periodically determined by the legislative body after hearing preceded by public notice to affected parties, and shall reflect changes in interest rates on the local agency's bonds, losses due to defaults, and bona fide changes in loan servicing charges related to the administration of a program under the provisions of this part. The local agency may collect interest and principal together with such fees and charges incurred in such financing and may contract to pay any person, partnership, association, corporation, or public agency with respect thereto. The local agency may hold deeds of trust as security for financing historical rehabilitation and may pledge the same as security for repayment of bonds issued pursuant to this part. The local agency may establish the terms and conditions for the financing of historical rehabilitation undertaken pursuant to this part.

The local agency may require that the full amount owed on any loan for historical rehabilitation made pursuant to this part shall be due and payable upon sale or other transfer of ownership of the property subject to such rehabilitation.

37622. The local agency may employ or contract for such

engineering, architectural, accounting, collection, economic feasibility, or other services in connection with the servicing of loans made to participating parties, as may be necessary in the judgment of the local agency for the successful financing of such historical rehabilitation. The local agency may pay the reasonable costs of consulting engineers, architects, accountants, construction experts, and economic feasibility experts, if, in the judgment of the local agency, such services are necessary to the successful financing of any historical rehabilitation and if the local agency is not able to provide such services. The local agency may employ, contract for, and fix the compensation of financing consultants, bond counsel, and other advisers as may be necessary in its judgment to provide for the issuance and sale of any bonds or bond anticipation notes of the local agency.

37623. In addition to all other powers specifically granted by this part, the local agency may do all things necessary or convenient to carry out the purposes of this part.

37624. Revenues shall be the sole source of funds pledged by the local agency for repayment of its bonds. Bonds issued under the provisions of this part shall not be deemed to constitute a debt or liability of the local agency or a pledge of the faith and credit of the local agency but shall be payable solely from revenues. The issuance of bonds shall not directly, indirectly, or contingently obligate the legislative body to levy or pledge any form of taxation or to make any appropriation for their payment.

37625. All historical rehabilitation shall be constructed or completed subject to the rules and regulations of the local agency. A local agency may acquire by deed, purchase, lease, contract, gift, devise, or otherwise any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands necessary or convenient for the financing of historical rehabilitation, upon such terms and conditions as it deems advisable, and may lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objectives and purposes of this part.

37626. Prior to the issuance of any bonds or bond anticipation notes of the local agency for historical rehabilitation, the legislative body shall by ordinance or resolution adopt a historical rehabilitation financing program. The program shall include, but is not limited to, the following items:

(1) Criteria for the selection of historical properties eligible for financing. Such criteria may include, but are not limited to:

(a) Architectural significance:

(i) Structures or areas that embody distinguishing characteristics of an architectural style, period, method of construction, or architectural development in a city or county.

(ii) Notable works of a master builder, designer, or architect whose style influenced the city or county's architectural development, or structures showing the evolution of an architect's style.

(iii) Rare structures displaying a building type, design, or indigenous building form.

(iv) Structures which embody special architectural and design features.

(v) Outstanding examples of structures displaying original architectural integrity, structurally or stylistically, or both.

(vi) Unique structures or places that act as focal or pivotal points important as a key to the character or visual quality of an area.

(b) Historical significance:

(i) Sites and structures connected with events significant in the economic, cultural, political, social, civic, ethnic, or military history of a community, state, or nation.

(ii) Structures or areas identified with the lives of historical personages of a community, state, or nation.

(iii) Sites and groups of structures representing historical development patterns, including, but not limited to, urbanization patterns, railroads, agricultural settlements, and canals.

(2) Criteria for the selection of historical rehabilitation areas. Such criteria may include, but are not limited to:

(a) Areas constituting a distinct section of the city and having special character, historical, architectural, or aesthetic interest and value.

(b) Areas providing significant examples of architectural styles of the past, or landmarks in the history of architecture.

(c) Areas serving as a reminder of past eras, events, and persons important in local, state, or national history, and illustrating past living styles for future generations to observe, study, and inhabit.

(d) Historical and culturally significant grounds, gardens, and objects.

(3) Following the adoption of the criteria as provided for in subdivisions (a) and (b), the designation of one or more historical rehabilitation areas, including a description of the area, a map and other related information.

(4) Procedures for the selection and financing of rehabilitation projects. Such procedures shall be subject to the following limitations:

(a) Outstanding loans on the property to be rehabilitated, including the amount of the loans for rehabilitation, shall not exceed 80 percent of the anticipated after-rehabilitation value of the property.

(b) The maximum repayment period for historical rehabilitation loans shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(c) No less than 90 percent of any loan for historical rehabilitation shall be used for historical rehabilitation, as defined in this part.

37627. The historical rehabilitation financing program may include:

(1) A requirement that rehabilitation financed by the program shall meet standards higher than the applicable state or local

standards for rehabilitation of properties, including, but not limited to, design guidelines, standards of aesthetics, use of materials, integrity of design, or historical authenticity.

(2) A provision for limitation of the degree or kind of historical rehabilitation eligible for financing, including, but not limited to, rehabilitation of parapets or dangerous parts of facades of historic properties.

(3) A requirement that the local agency receive a legally binding assurance that the property rehabilitated with financing from this program shall be preserved, subject to reasonable conditions. The form and conditions of such assurance shall be specified in a historical rehabilitation financing program.

(4) A capital outlay program for the historical rehabilitation area which identifies the public improvements needed to support private rehabilitation efforts. Such improvements may include street improvements, street closures, street fixtures, and landscaping.

(5) If the program is likely to result in anticipated increases in rents or other housing costs which would cause displacement of residents of historic properties, or is likely to result in residents paying a disproportionately large percentage of their incomes for housing, a commitment that the local agency shall make efforts to prevent displacement of residents. Such efforts shall include, but are not limited to, utilization of federal, state, or local funding programs which may be available for rent subsidies.

(6) A provision for control of rents if controls are included in order to prevent precipitous increases in rent which the rehabilitation would engender. Such provision may include a requirement that the borrower agree during the term of the loan not to raise the rental amount over an amount which the local agency establishes as a fair rate of return for similar investments and will allow for increases that are reasonably necessary to provide for proper maintenance of the property.

37628. Prior to the adoption of an historical rehabilitation financing program and the designation of an historical rehabilitation area, the local agency shall provide for maximum citizen participation by persons who will be affected by historical rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the historical rehabilitation program. "Citizen participation" shall include, but is not limited to:

(a) Holding a public meeting to inform the public of the proposed historical rehabilitation financing program.

(b) Holding a public hearing prior to the adoption of the historical rehabilitation financing program and the designation of an historical rehabilitation area.

(c) Public notice by the local agency, at least seven days in advance of a public meeting or hearing, in a newspaper of general circulation in the area, of the time and place of a meeting or hearing and a general description of the program.

(d) Dissemination by the local agency, at least seven days in advance of a public meeting or hearing, by mailing to those individuals or groups which have requested notification, of information relating to the time and place of a meeting or hearing and a general description of the program.

(e) Establishment of a citizen advisory board for the purpose of providing recommendations to the legislative body on the contents of the historical rehabilitation financing program. Members of the citizens advisory board shall be appointed by the legislative body and shall include one or more representatives of owners of properties affected by the program, one or more representatives of residents or occupants (if any) of properties to be affected by the program, one or more representatives of the local community groups (if any) known by the legislative body to be concerned with historical rehabilitation, and others as the legislative body may deem appropriate.

An existing local official historic preservation board or commission may be appointed as the citizens advisory board, provided that, in addition, representatives as required by this section are also appointed.

37629. No financing shall be provided under this part until criteria required by Section 37626 have been adopted. Properties eligible for financing must be located within a designated historical rehabilitation area. Prior to granting financial assistance, the local agency shall find that the funds loaned shall be used for the purpose of historical rehabilitation and that the financing of such rehabilitation is economically feasible.

37630. The local agency shall require that any property which is rehabilitated with financing obtained under this part shall be open, upon sale or rental of any portion thereof, to all regardless of race, color, religion, national origin, or ancestry. The local agency shall also require that contractors and subcontractors engaged in historical rehabilitation financed under this part provide equal opportunity for employment, without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry. All contracts and subcontracts for historical rehabilitation financed under this part shall be let without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry.

37631. Any action challenging the legality of an historical rehabilitation financing program, or of the selection of historical properties for rehabilitation pursuant to this part, shall be commenced within 60 days of the adoption of such program or within 60 days of such selection.

CHAPTER 3. BONDS AND NOTES

37640. (a) A local agency may issue its negotiable bonds or notes for the purpose of financing historical rehabilitation, including the rehabilitation of (1) single properties for single participating parties,

(2) a series of properties for a single participating party, (3) single properties for several participating parties, or (4) several properties for several participating parties. In anticipation of the sale of such bonds, the local agency may issue negotiable bond anticipation notes and may renew such notes from time to time. Bond anticipation notes may be paid from the proceeds of sale of the bonds of the local agency in anticipation of which they were issued. Bond anticipation notes and agreements relating thereto and the resolution or resolutions authorizing such notes and agreements may contain any provisions, conditions, or limitations which a bond, agreement relating thereto, or bond resolution of the local agency may contain except that any such note or renewal thereof shall mature at a time not later than two years from the date of the issuance of the original note.

(b) Every issue of its bonds shall be a special obligation of the local agency payable from all or any part of the revenues specified in this part. The bonds shall be negotiable instruments for all purposes, subject only to the provisions of such bonds for registration.

37641. The bonds may be issued as serial bonds or as term bonds, or the local agency, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the local agency and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates of issuance, bear interest at such fixed or variable rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places, and be subject to such terms of redemption as the resolution or resolutions of the local agency may provide. The bonds may be sold at either a public or private sale and for such prices as the local agency shall determine. Pending preparation of the definitive bonds, the local agency may issue interim receipts, certificates, or temporary bonds, which shall be exchanged for such definitive bonds. The local agency may sell any bonds, notes, or other evidence of indebtedness at a price below the par value thereof, but the discount on any bond so sold shall not exceed 6 percent of the par value thereof.

37642. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of the bonds:

(a) The pledge of all or any part of the revenues, as defined in this part, subject to such agreements with bondholders as may then exist.

(b) The interest and principal to be received and other charges to be charged and the amounts to be raised each year thereby, and the use and disposition of the revenues.

(c) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(d) Limitations on the purposes to which the proceeds of a sale of

any issue of bonds, then or thereafter issued, may be applied, and pledging such proceeds to secure the payment of the bonds or any issue of bonds.

(e) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(f) 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.

(g) Limitation on expenditures for operating, administration, or other expenses of the local agency.

(h) Specification of the acts or omissions to act which shall constitute a default in the duties of the local agency to holders of its obligations, and providing the rights and remedies of such holders in the event of default.

(i) The mortgaging of any property and the site thereof for the purpose of securing the bondholders.

(j) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

37643. Neither the members of the legislative body of the local agency nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

37644. The local agency shall have the power out of any funds available therefor to purchase its bonds or notes. The local agency may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with the bondholders.

37645. In the discretion of the local agency, any bonds issued under the provisions of this part may be secured by a trust agreement by and between the local agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any residence, the rehabilitation of which is to be financed out of the proceeds of such bonds. Such trust agreement or resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including such provisions as may be included in any resolution or resolutions of the local agency authorizing the issuance of bonds pursuant to Section 37642. Any bank or trust company doing business under the laws of this state which may act as depositary of the proceeds of bonds or of revenues or other moneys may furnish such indemnity bonds or pledge such securities as may be required by the local agency. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right

of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the local agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of historical rehabilitation.

37646. Any holder of bonds issued under the provisions of this part or any of the coupons appertaining thereto, and the trustee or trustees appointed pursuant to any resolution authorizing the issuance of such bonds, except to the extent the rights thereof may be restricted by the resolution authorizing the issuance of the bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect or enforce any and all rights specified in the laws of the state or in such resolution, and may enforce and compel the performance of all duties required by this part or by such resolution to be performed by the local agency or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, fees, interest, and charges authorized and required by the provisions of such resolution to be fixed, established, and collected.

37647. Bonds issued under the provisions of this part shall not be deemed to constitute a debt or liability of the local agency or a pledge of the faith and credit of the local agency, but shall be payable solely from the funds specified in this part. All 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 [local agency] 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, indirectly, or contingently obligate the local agency to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

37648. (a) The local agency may provide for the issuance of the bonds of the local agency for the purpose of refunding any bonds of the local agency then outstanding, including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the local agency, for the additional purpose of paying all or any part of the cost of additional historical rehabilitation.

(b) The proceeds of bonds issued for the purpose of refunding any outstanding bonds may, in the discretion of the local agency, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow, to be applied to such purchase or retirement at maturity or redemption

on such date as may be determined by the local agency.

(c) Pending use for purchase, retirement at maturity, or redemption of outstanding bonds, any proceeds held in escrow pursuant to subdivision (b) may be invested and reinvested as provided in the resolution authorizing the issuance of the bonds. Any interest or other increment earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest or increment earned or realized from the investment thereof may be returned to the local agency to be used by it for any lawful purpose.

(d) That portion of the proceeds of any such bonds designated for the purpose of paying all or any part of the cost of additional historical rehabilitation pursuant to subdivision (a) may be invested and reinvested in obligations of, or guaranteed by, the United States of America or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost.

(e) All bonds issued pursuant to this section shall be subject to the provisions of this part in the same manner and to the same extent as other bonds issued pursuant to this part.

37649. Notwithstanding any other provisions of law, bonds issued pursuant to this part shall be legal investments for all trust funds, the funds of insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, trustees, and all other fiduciaries. Such bonds shall be legal investments for state school funds and for any funds which may be invested in county, municipal, or school district bonds, and such bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

37650. The exercise of the powers granted by this part shall be in all respects for the benefit of the people of this state and for their health and welfare. Any bonds or notes issued under the provisions of this chapter, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by the municipalities and other political subdivisions of the state.

CHAPTER 4. REHABILITATION LOANS

37660. The local agency may provide financing to any participating party for the purpose of historical rehabilitation authorized pursuant to an historical rehabilitation financing program. All agreements for such loans shall provide that the

architectural and engineering design of the historical rehabilitation shall be subject to such standards as may be established by the local agency and that the work of such historical rehabilitation shall be subject to such supervision as the local agency deems necessary.

37661. The local agency may enter into loan agreements with any participating party relating to historical rehabilitation of any kind or character. The terms and conditions of such loan agreements may be as mutually agreed upon. Any such loan agreement may provide the means or methods by which any mortgage taken by the local agency shall be discharged, and it shall contain such other terms and conditions as the local agency may require. The local agency is authorized to fix, revise, charge, and collect interest and principal and all other rates, fees, and charges with respect to financing of historical rehabilitation. Such rates, fees, charges, and interest shall be fixed and adjusted so that the aggregate of such rates, fees, charges, and interest will provide funds sufficient with other revenues and moneys which it is anticipated will be available therefor, if any, to do all of the following:

(a) Pay the principal of and interest on outstanding bonds of the local agency issued to finance such historical rehabilitation as the same shall become due and payable.

(b) Create and maintain reserves required or provided for in any resolution authorizing such bonds. A sufficient amount of the revenues derived from historical rehabilitation may be set aside at such regular intervals as may be provided by the resolution in a sinking or other similar fund, which is hereby pledged to, and charged with, the payment of the principal of and interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time the pledge is made. The rates, fees, interest, and other charges, revenues, or moneys so pledged and thereafter received by the local 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 local agency, irrespective of whether such parties have notice thereof. Neither the resolution nor any loan agreement by which a pledge is created need be filed or recorded except in the records of the local agency. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds. Except as may otherwise be provided in such resolution, such sinking or other similar fund may be a fund for all bonds of the local agency issued to finance the rehabilitation of the historical property of a particular participating party without distinction or priority. The local agency, however, in any such resolution may provide that such sinking or other similar fund shall be the fund for a particular historical rehabilitation project or projects and for the bonds issued to finance such historical

rehabilitation project or projects and may, additionally, authorize and provide for the issuance of bonds having a lien with respect to the security authorized by this section which is subordinate to the lien of other bonds of the local agency, and, in such case, the local agency may create separate sinking or other similar funds securing the bonds having the subordinate lien.

(c) Pay operating and administrative costs of the local agency incurred in the administration of the program authorized by this part.

37662. All moneys received pursuant to the provisions of this part, whether proceeds from the sale of bonds or revenues, shall be deemed to be trust funds to be held and applied solely as provided in this part. Any bank or trust company in which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes specified in this part, subject to the terms of the resolution authorizing the bonds.

CHAPTER 5. CONSTRUCTION AND EFFECT

37680. This part being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes.

37681. If the jurisdiction of the legislative body to order the proposed act is not affected, an omission of any officer or the local agency in proceedings under this part or any other defect in the proceedings shall not invalidate the proceedings or bonds issued pursuant to this part.

37682. This part is full authority for the issuance of bonds by a local agency for the purpose of financing historical rehabilitation.

Supplemental and Additional Authority

37683. This part 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 the powers conferred by other laws. The issuance of 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.

37684. An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds and the legality and validity of all proceedings previously taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds and for the payment of the principal thereof and interest thereon.

SEC. 2. 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. 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 new duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 1346

An act to amend Sections 10153.6, 10153.7, 10156.2, 10161.5, 10161.7, 10177, and 10463 of, and to add and repeal Article 2.5 (commencing with Section 10170) to Chapter 3 of Part 1 of Division 4 of, and Section 10209.2 to, the Business and Professions Code, relating to real estate licensees.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 10153.6 of the Business and Professions Code is amended to read:

10153.6. All real estate broker licenses issued by the commissioner shall be for a period of four years.

Applicants must qualify in the appropriate examination and satisfy all other requirements prior to issuance of the license.

The four-year license may be renewed upon filing the required application and fee, and complying with the provisions of Article 2.5 (commencing with Section 10170) of this chapter.

SEC. 2. Section 10153.7 of the Business and Professions Code is amended to read:

10153.7. All real estate salesman licenses issued by the commissioner shall be for a period of four years.

Applicants must qualify in the appropriate examination, submit a recommendation of the broker who is to be his employer certifying that the applicant is honest, truthful, and of good reputation, and satisfy all other requirements prior to issuance of the license.

The four-year license may be renewed upon filing the required application and fee, and complying with the provisions of Article 2.5 (commencing with Section 10170) of this chapter.

SEC. 3. Section 10156.2 of the Business and Professions Code is amended to read:

10156.2. An application on the form prescribed by the commissioner for the renewal of a license, filed before midnight of the last day of the period for which a previous renewal license was issued, accompanied by the applicable renewal fee and good faith evidence of compliance with the provisions of Article 2.5 (commencing with Section 10170) of this chapter, entitles the applicant to continue operating under his existing license after its specified expiration date, if not previously suspended or revoked.

4332 289315 948

If the commissioner determines that the applicant has not complied with the continuing education requirements he shall either (1) advise the applicant of the applicability of Section 10171.2 on an extended period for compliance; or (2) advise the applicant that his rights to operate under the prior license will expire five days from the date such notice is mailed, or on the date the license would normally expire, whichever is later; and the commissioner's reason for that determination, and the right of the applicant to request a hearing on the decision.

SEC. 4. Section 10161.5 of the Business and Professions Code is amended to read:

10161.5. When the holder of a real estate broker's or salesman's license is required to relinquish his license to assume an office in local, state, or federal government, he may have it reinstated at any time within six months of termination of his service in office upon payment of the appropriate renewal fee, and compliance with the provisions of Article 2.5 (commencing with Section 10170) of this chapter, if the relinquished license was issued four or more years prior to his application for reinstatement.

SEC. 5. Section 10161.7 of the Business and Professions Code is amended to read:

10161.7. The license of a real estate broker or salesman may be inactivated within the period for which the license was issued by notifying the commissioner in writing of the inactivation and paying the prescribed fee. The change of status from active to inactive shall be made by the licensee on the active license by marking out all but the licensee's name on the face of the license; by typing or writing in ink on the reverse side the words "Inactive License"; and by typing or writing the licensee's residence address, and date and placing his initials thereon.

An inactive license which is not suspended or revoked may be reinstated at any time during the period for which the license was issued, and may be renewed each four-year period upon the making of application therefor and the payment of the appropriate fee. Compliance with Section 10171 is not required for renewal of a license in an inactive status.

Notwithstanding any other provision of this part:

(a) If the license is inactivated or the right to renew the license has not been exercised for a continuous period of more than six months, the license may be reinstated or renewed after a lapse of 30 days of application for renewal or reinstatement.

(b) On or after July 1, 1980, any license which has been inactive for a continuous period of five years may be reinstated or renewed provided the licensee complies with the provisions of Section 10171.6 and has met the examination requirement of an original applicant.

An inactive broker need not maintain a place of business as required by Section 10162.

An inactive licensee shall not be entitled to act in any capacity for which the license is required until the license has been reinstated.

SEC. 6. Article 2.5 (commencing with Section 10170) is added to Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, to read:

Article 2.5. Continuing Education

10170. The Legislature has determined that it is in the public interest of consumer protection and consumer service that all real estate licensees licensed under the provisions of this part comply with continuing education requirements adopted by the commissioner pursuant to this article as a prerequisite to the renewal of real estate licenses on and after January 1, 1981.

10170.2. The commissioner may appoint a committee comprised of licensees under this part and persons with expertise in real estate education to advise him with respect to his responsibilities under this article.

10170.4. By January 1, 1978, the commissioner shall adopt regulations pursuant to Section 10080, to prescribe:

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

(b) A basis and method of qualifying educational programs, the certification of attendance at which, or challenging the course of which, will satisfy the requirements of this article;

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

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

(e) A statement of the conditions of exemption from the continuing education requirements established under this article, as well as a method of applying and qualifying for such exemptions, for reasons of health, military service, or other compelling cause, including a showing of hardship in connection with the reinstatement of an inactive license.

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

4332 289360 957

programs on technical subjects, or equivalent offerings.

10170.6. The commissioner may amend or repeal any regulation adopted pursuant to this article in the same manner as provided for adoption of such regulations, except that no amendment or repeal shall operate to deprive any licensee of the right to submit qualifying education completed pursuant to such amended or repealed regulation during his current license term, as a basis for license renewal.

10171. On and after January 1, 1981, no active broker or salesman license shall be renewed unless the commissioner finds that the applicant for such renewal license has completed the continuing education required by this chapter. Any denial of license renewal shall be subject to the provisions of Section 10100.

10171.2. If an applicant for a renewal license has submitted, in good faith, evidence of completion of continuing education which he had reason to believe would qualify him for license renewal, but the commissioner finds that the evidence submitted does not qualify under standards adopted pursuant to this article, the commissioner may, nonetheless, extend the license for 90 days in order to allow the applicant to submit additional evidence of compliance, which satisfies the requirements of this article. When the renewal license is issued during or at the end of the grace period provided for in this section it shall expire four years from the date otherwise applicable if no grace period had been granted.

10171.4. Any licensee who applies for renewal of his license under provisions of Section 10461, or for reinstatement of his license under provisions of Section 10161.5 or 10463, shall, if the previous active license issued to him was issued four or more years prior to his application for renewal or reinstatement, present evidence of compliance with Section 10171. If no such qualifying evidence is presented, the commissioner may issue a temporary license for a period of 90 days.

If the applicant presents evidence within such 90 days of compliance with Section 10171 and is otherwise qualified, the commissioner shall issue a regular license without additional fee. It shall expire four years from the date which would otherwise have been applicable if a temporary license under the provisions of this section had not been issued.

10171.6. Any licensee who applies for reinstatement of his license under the provisions of Section 10161.7, shall, if the previous active license issued to him was issued four or more years prior to his application for reinstatement, present evidence of compliance with Section 10171. If no such qualifying evidence is presented, the commissioner may reactivate the license for a period of 90 days upon a showing of hardship.

If the applicant presents evidence within such 90 days of compliance with Section 10171 and is otherwise qualified, the commissioner shall fully reactivate the license without additional fee.

SEC. 7. Section 10177 of the Business and Professions Code is

amended to read:

10177. The commissioner may suspend or revoke the license of any real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or any salesman, by fraud, misrepresentation or deceit, or by making any material misstatement of fact in an application for a real estate license, license renewal or reinstatement.

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provision of Section 1203.4 of the Penal Code allowing such licensee to withdraw his plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

(c) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his business, or any business opportunity or any land or subdivision (as defined in Chapter 1 (commencing with Section 11000) of Part 2 of this division) offered for sale.

(d) Willfully disregarded or violated any of the provisions of the Real Estate Law (commencing with Section 10000 of this code) or of Chapter 1 (commencing with Section 11000) of Part 2 of this division or of the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 of Part 2 of this division.

(e) Willfully used the term "realtor" or any trade name or insignia of membership in any real estate organization of which the licensee is not a member.

(f) Acted or conducted himself in a manner which would have warranted the denial of his application for a real estate license.

(g) Demonstrated negligence or incompetence in performing any act for which he is required to hold a license.

(h) If, as a broker licensee, failed to exercise reasonable supervision over the activities of his salesmen.

(i) Has used his employment by a governmental agency in a capacity giving access to records, other than public records, in such manner as to violate the confidential nature of such records.

(j) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in any order granting a restricted license.

(*l*) Solicited or induced the sale, lease or the listing for sale or lease, of residential property on the ground, wholly or in part, of loss

of value, increase in crime, or decline of the quality of the schools, due to the present or prospective entry into the neighborhood of a person or persons of another race, color, religion, ancestry or national origin.

(m) Violated any of the provisions of the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or any regulations of the Corporations Commissioner pertaining thereto.

SEC. 8. Section 10209.2 is added to the Business and Professions Code, to read:

10209.2. The commissioner shall, by regulation, establish fees for applications for approval of educational courses, seminars or conferences as authorized by Section 10170.4 in an amount sufficient to cover the cost of processing such applications.

SEC. 9. Section 10463 of the Business and Professions Code is amended to read:

10463. Any person who would qualify as a military licensee except for the failure to notify the commissioner of his entry into the military service of the United States may apply to the commissioner for reinstatement of his license upon resuming business or within one year following termination of military service, whichever is earlier. The commissioner shall reinstate such an applicant if he finds that the applicant would be entitled to the privileges of this article except for his failure to give the commissioner notice of his entry into the military service of the United States and that the applicant has complied with Article 2.5 (commencing with Section 10170). In the event the applicant failed to notify the commissioner of his entry into the military service as provided, he shall be required to submit proof of his previous licensure within seven years of the date of entry into the military service to permit reinstatement of his license.

SEC. 10. The commissioner shall before February 15, 1982, and again before February 15, 1983, report to the Governor and to the Legislature, the experience under this program for the prior calendar year indicating the number of licenses renewed and an analysis showing the source of education presented by the applicant for renewal including: (1) educational programs and seminars of professional societies and organizations, (2) private vocational schools, (3) correspondence institutions, (4) the University of California, (5) the California State University and Colleges, (6) California community colleges, (7) other institutions of collegiate grade, (8) other organized educational programs on technical subjects, and (9) programs or work accepted by the commissioner as equivalent.

SEC. 11. Section 6 of this act shall be operative until January 1, 1985, and on such date is repealed.

CHAPTER 1347

An act to amend Sections 3351, 3352, 3364.55, 3365, and 4458 of, and to add Sections 3370 and 3371 to, the Labor Code, and to amend Sections 2601, 2700, 2766, and 2791 of, and to add Section 5069 to, the Penal Code, relating to workers' compensation for prisoners.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. 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.

(e) All persons incarcerated in a state penal or correctional institution while engaged in assigned work.

SEC. 2. 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.

4627 289435 972

(d) 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.

(e) 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.

(f) 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.

(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. 3. Section 3364.55 of the Labor Code is amended to read:

3364.55. A ward of the juvenile court engaged in rehabilitative work without pay, under an assignment by order of the juvenile court to a work project on public property within the jurisdiction of any governmental entity, including the federal government, shall, upon the adoption of a resolution of the board of supervisors declaring that such ward is deemed an employee of the county for purposes of this division, be entitled to the workers' compensation benefits provided by this division for injury sustained while in the performance of such assigned work project, provided:

(a) That such ward shall not be entitled to any temporary disability indemnity benefits.

(b) That in determining permanent disability benefits, average weekly earnings shall be taken at the minimum provided therefor in Section 4453.

SEC. 4. Section 3365 of the Labor Code is amended to read:

3365. For the purposes of this division:

(a) Except as provided in subdivisions (b) and (c), each person engaged in suppressing a fire pursuant to Section 4153 or 4436 of the Public Resources Code, and each person (other than an independent contractor or an employee of an independent contractor) engaged in suppressing a fire at the request of a public officer or employee charged with the duty of preventing or suppressing fires, is deemed, except when the entity is the United States or an agency thereof, to be an employee of the public entity that he is serving or assisting in the suppression of the fire, and is entitled to receive compensation from such public entity in accordance with the provisions of this division. When the entity being served is the United States or an agency thereof, the State Department of Corrections shall be deemed the employer and the cost of workers' compensation may be considered in fixing the reimbursement paid by the United States for the service of prisoners. A person is engaged in suppressing a fire

only during the period he (1) is actually fighting the fire, (2) is being transported to or from the fire, or (3) is engaged in training exercises for fire suppression.

(b) A member of the armed forces of the United States while serving under military command in suppressing a fire is not an employee of a public entity.

(c) Neither a person who contracts to furnish aircraft with pilots to a public entity for fire prevention or suppression service, nor his employees, shall be deemed to be employees of the public entity; but a person who contracts to furnish aircraft to a public entity for fire prevention or suppression service and to pilot the aircraft himself shall be deemed to be an employee of the public entity.

SEC. 5. Section 3370 is added to the Labor Code, to read:

3370. (a) Each inmate of a state penal or correctional institution shall be entitled to the workers' compensation benefits provided by this division for injury arising out of and in the course of assigned employment and for the death of such inmate if the injury proximately causes death, subject to all of the following conditions:

(1) Such inmate was not injured as the result of an assault in which the inmate was the initial aggressor, or as the result of the intentional act of the inmate injuring himself.

(2) Such inmate shall not be entitled to any temporary disability indemnity benefits while incarcerated in a state prison.

(3) No benefits shall be paid to an inmate while he is incarcerated. The period of benefit payment shall instead commence upon release from incarceration. If an inmate who has been released from incarceration, and has been receiving benefits under this section, is reincarcerated in a state penal or correctional institution, such benefits shall cease immediately upon the inmate's reincarceration and shall not be paid for the duration of such reincarceration.

(4) In determining temporary and permanent disability indemnity benefits for such inmate, the average weekly earnings shall be taken at not less than the minimum amount set forth in Section 4453.

(5) Where a dispute exists repecting an inmate's rights to the workers' compensation benefits provided herein, the inmate may file an application with the appeals board to resolve the dispute. Such application may be filed at any time during the inmate's incarceration.

(6) After release or discharge from a correctional institution, the former inmate shall have one year in which to file an original application with the appeals board, unless the time of injury is such that it would allow more time under Section 5804 of the Labor Code.

(7) The percentage of disability to total disability shall be determined as for the occupation of a laborer of like age by applying the schedule for the determination of the percentages of permanent disabilities prepared and adopted by the administrative director.

(8) The provisions of this division shall be the exclusive remedy against the state for injuries occurring while engaged in assigned

work. Nothing in this division shall affect any right or remedy of an injured inmate for injuries not compensated by this division.

(b) The Department of Corrections shall present to each inmate of a state penal or correctional institution, prior to his first assignment to work at such institution, a printed statement of his rights under this division, and a description of procedures to be followed in filing for benefits under this section. Such a statement shall be approved by the administrative director and be posted in a conspicuous place at each place where an inmate works.

(c) Notwithstanding any other provision of this division, the Department of Corrections shall have medical control over treatment provided an injured inmate while incarcerated in a state prison, except, that in serious cases, the inmate is entitled, upon request, to the services of a consulting physician.

SEC. 6. Section 3371 is added to the Labor Code, to read:

3371. The assigned referee of the appeals board may, if the inmate applicant requests, or if the issues are complex, refer the applicant to a panel of qualified workers' compensation attorneys in the geographical area, from which panel the applicant may choose his attorney for the proceedings. The attorney so chosen, and accepting the case, shall be awarded a reasonable fee set by the referee and paid by the Department of Corrections. This section applies only to proceedings held while the applicant is an inmate of a correctional institution. After release or discharge the applicant's obligation respecting attorney fees is the same as that of any other injured employee claimant before the appeals board.

SEC. 7. Section 4458 of the Labor Code is amended to read:

4458. If a member registered as an active firefighting member of any regularly organized volunteer fire department as described in Section 3361 suffers injury or death while in the performance of his duty as fireman, or if a person engaged in fire suppression as described in Section 3365 suffers injury or death while so engaged, then, irrespective of his remuneration from this or other employment or from both, his average weekly earnings for the purposes of determining temporary disability indemnity and permanent disability indemnity shall be taken at the maximum fixed for each, respectively, in Section 4453. Four times his average annual earnings in disability cases and in death cases shall be taken at the maximum limits provided in Sections 4452 and 4702 respectively.

SEC. 8. Section 2601 of the Penal Code is amended to read:

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.

(i) To receive all benefits provided for in Sections 3370 and 3371 of the Labor Code and in Section 5069 of this code.

SEC. 9. Section 2700 of the Penal Code is amended to read:

2700. The Department of Corrections shall require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his term of imprisonment as shall be prescribed by the rules and regulations of the Director of Corrections.

Each prisoner, who is engaged in productive work in any state prison or institution under the jurisdiction of the Department of Corrections as a part of the prison work program, may receive for his work such compensation as the Director of Corrections with the approval of the Department of Finance shall determine, to be paid out of any funds appropriated therefor. Such compensation, if any, shall be in accordance with a graduated schedule based on quantity and quality of work performed and skill required for its performance, but in no event shall such compensation exceed thirty-five cents ($0.35) per hour, or be less than two cents ($0.02) per hour. Said compensation shall be credited to the account of the prisoner.

Such compensation shall be paid from the Correctional Industries Revolving Fund. Whenever by any statute a price is required to be fixed for any article, material, supply or services to be produced, manufactured, supplied or performed in connection with the work program of the Department of Corrections, the compensation paid to prisoners shall be included as an item of cost in fixing the final statutory price.

Prisoners not engaged on work programs under the jurisdiction of the Correctional Industries Commission and financed out of the Correctional Industries Revolving Fund, but who are engaged in productive labor outside of such programs may be compensated in

like manner. The compensation of such prisoners shall be paid either out of funds appropriated by the Legislature for that purpose or out of such other funds available to the Department of Corrections for expenditure, as the Director of Finance may direct.

When any prisoner escapes, the director shall determine what portion of his earnings shall be forfeited and such forfeiture shall be deposited in the State Treasury in a fund known as the Inmate Welfare Fund of the Department of Corrections.

SEC. 10. Section 2766 of the Penal Code is amended to read:

2766. This article is not intended to restore, in whole or in part, the civil rights of any prisoner used hereunder, and such article shall not be so construed.

SEC. 11. Section 2791 of the Penal Code is amended to read:

2791. This article is not intended to restore, in whole or in part, the civil rights of any convict used hereunder, and such article shall not be so construed.

SEC. 12. Section 5069 is added to the Penal Code, to read:

5069. (a) The administrative director of the Division of Industrial Accidents shall formulate procedures for the selection and orderly referral of injured inmates of state penal or correctional institutions who may be benefited by rehabilitation services and retrained for other positions upon release from incarceration. The State Department of Rehabilitation shall cooperate in both designing and monitoring results of rehabilitation programs for the disabled inmates. The primary purpose of this section is to rehabilitate injured inmates in order that they might engage in suitable and gainful employment upon their release.

(b) The director shall notify the injured inmate of the availability of rehabilitation services in those cases where there is continuing disability of 28 days and beyond. A copy of such notification shall be forwarded to the State Department of Rehabilitation.

(c) The initiation of a rehabilitation plan shall be the responsibility of the director.

(d) Upon establishment of a rehabilitation plan, the injured inmate shall cooperate in carrying it out.

(e) The injured inmate shall receive such medical and vocational rehabilitative services as may be reasonably necessary to restore him to suitable employment.

(f) The injured inmate's rehabilitation benefit is an additional benefit and shall not be converted to or replace any workmen's compensation benefit available to him.

CHAPTER 1348

An act to amend Sections 99232, 99233, 99234, 99241, 99267.5, 99268.5, 99269, 99400, and 99405 of, to amend and renumber Sections 99233.6, 99233.7, and 99233.9 of, to add Sections 99222, 99233.1, 99233.2, 99233.3, 99233.4, 99233.6, 99233.8, 99233.9, 99243, 99260.2, 99266.7, 99268.6, 99268.7, 99268.8, 99268.9, and 99301 to, to add and repeal Section 99233.7 and Article 4.5 (commencing with Section 99275) of Chapter 4 of Part 11 of Division 10 of, and to repeal Sections 99233.5 and 99233.8 of, the Public Utilities Code, relating to transportation.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 99222 is added to the Public Utilities Code, to read:

99222. The Legislature hereby finds and declares that:

(a) It is in the interest of the state that funds available for transit development be fully expended to meet the transit needs that exist in California.

(b) Such funds be expended for physical improvement to improve the movement of transit vehicles, the comfort of the patrons, and the exchange of patrons from one transportation mode to another.

SEC. 1.5. Section 99232 of the Public Utilities Code is amended to read:

99232. For counties with a population of 500,000 or more, as determined under Section 28020 of the Government Code, as now or hereafter amended, but excluding counties with more than 4,500 miles of maintained county roads, the amount representing the apportionments of the areas of all operators shall be available solely for claims for Section 99234 purposes and for Article 4 (commencing with Section 99260) and Article 4.5 (commencing with Section 99275) purposes, and any such moneys not allocated in any year shall be available for such claims in subsequent years.

SEC. 2. Section 99233 of the Public Utilities Code is amended to read:

99233. The fund shall be allocated by the designated transportation planning agency for the purposes specified in Sections 99233.1 to 99233.9, inclusive, in such sequence.

SEC. 3. Section 99233.1 is added to the Public Utilities Code, to read:

99233.1. There shall be allocated to the county and the transportation planning agency such sums as are necessary to administer this chapter.

SEC. 4. Section 99233.2 is added to the Public Utilities Code, to read:

99233.2. There shall be allocated to the transportation planning agency, if it is statutorily created (other than a transit development board), such sums as it may approve, up to 3 percent of annual revenues, for the conduct of the transportation planning process, unless a greater amount is approved by the secretary.

SEC. 4.5. Section 99233.2 is added to the Public Utilities Code, to read:

99233.2. (a) Except as provided in subdivision (b), there shall be allocated to the transportation planning agency, if it is statutorily created, such sums as it may approve, up to 3 percent of annual revenues, for the conduct of the transportation planning and programming process, unless a greater amount is approved by the secretary.

(b) In those areas that have a county transportation commission created pursuant to Section 130050, up to 1 percent of annual revenues shall be allocated to the commissions in Los Angeles and Orange Counties and up to 2 percent of the annual revenues shall be allocated to the commissions in Riverside and San Bernardino Counties for the transportation planning and programming process. In addition, up to three-fourths of 1 percent of annual revenues shall be allocated to the multicounty designated transportation planning agency, as defined in Section 130004, for the transportation planning and programming process. No operator shall grant any funds it receives under this chapter to the designated multicounty transportation planning agency for the purposes of the agency carrying out its responsibilities under Division 12 (commencing with Section 130000).

SEC. 5. Section 99233.3 is added to the Public Utilities Code, to read:

99233.3. Two percent of the remaining money in the fund shall be made available to counties and cities for facilities provided for the exclusive use of pedestrians and bicycles, unless the transportation planning agency finds that the money could be used to better advantage for the purposes stated in Article 4 (commencing with Section 99260) and Article 4.5 (commencing with Section 99275) of this chapter, or for local street and road purposes in those areas where the money may be expended for such purposes, in the development of a balanced transportation system.

SEC. 6. Section 99233.4 is added to the Public Utilities Code, to read:

99233.4. Allocations shall be made for rail passenger services pursuant to Section 99234.5.

SEC. 7. Section 99233.5 of the Public Utilities Code is repealed.

SEC. 8. Section 99233.6 of the Public Utilities Code is amended and renumbered to read:

99234.5. (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) The capital expenditures requirement of Section 99267 shall not apply to the contributions made to the joint powers entity pursuant to subdivision (a).

(c) 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.

SEC. 9. Section 99233.6 is added to the Public Utilities Code, to read:

99233.6. Allocations shall be made pursuant to Section 99234.9 to counties and cities for the extension of passenger rail services or the upgrading of other commuter rail services.

SEC. 10. Section 99233.7 of the Public Utilities Code is amended and renumbered to read:

99233.5. (a) One percent of the remaining money in the fund for the area under the jurisdiction of a transit development board created pursuant to Division 11 (commencing with Section 120000) shall be allocated for long-term transportation system planning pursuant to Section 120300 to the council of governments that is the transportation planning agency for that area.

(b) (1) Up to 10 percent of the remaining money for the area under the jurisdiction of a transit development board created pursuant to Division 11 (commencing with Section 120000) shall be allocated to the transit development board for the planning and administration of exclusive public mass transit guideways.

(2) Thereafter, the remaining money for allocation in that area shall be allocated by the transportation planning agency to claimants as directed by the transit development board.

(3) The transit development board shall not receive allocation pursuant to paragraph (1) of this subdivision if it does not appoint a general manager pursuant to Section 120105.5 by January 31, 1977.

SEC. 11. Section 99233.7 is added to the Public Utilities Code, to read:

99233.7. Except those areas in which claims may be filed for those purposes specified in Article 8 (commencing with Section 99400), up

to 5 percent of the remaining money in the fund shall be made available to cities, counties, and operators for claims filed pursuant to Article 4.5 (commencing with Section 99275) of this chapter, unless the transportation planning agency, or a county transportation commission created pursuant to Division 12 (commencing with Section 130000) as proposed by Assembly Bill No. 1246 of the 1975–76 Regular Session of the Legislature, if the bill is chaptered and becomes effective, having jurisdiction finds, after considering the claims pursuant to subdivision (c) of Section 99275.5, that such allocations of money could be used to better advantage for the purposes stated in Article 4 (commencing with Section 99260) in the development of a balanced transportation system.

The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionment to a city or county for purposes of Sections 99233.8 and 99233.9.

This section shall remain in effect only until July 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1980, deletes or extends such date.

SEC. 12. Section 99233.8 of the Public Utilities Code is repealed.

SEC. 13. Section 99233.8 is added to the Public Utilities Code, to read:

99233.8. There shall be allocated to operators such money as is approved by the transportation planning agency for claims presented pursuant to Article 4 (commencing with Section 99260) of this chapter.

SEC. 14. Section 99233.9 of the Public Utilities Code is amended and renumbered to read:

99234.9. 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 Chapter 1130 of the Statutes of 1975, may file claims with the transportation planning agency for all, or a portion, of its required contribution toward the cost of providing such services. The capital expenditure requirements of Section 99267 shall not apply to allocations made for purposes of this section.

SEC. 15. Section 99233.9 is added to the Public Utilities Code, to read:

99233.9. There shall be allocated to counties and cities such money as is approved by the transportation planning agency for claims presented pursuant to Article 8 (commencing with Section 99400) of this chapter.

SEC. 16. Section 99234 of the Public Utilities Code is amended to read:

99234. (a) Claims for facilities provided for the exclusive use of pedestrians and bicycles shall be filed in the same manner as are claims filed for the purposes of subdivision (a) of Section 99400.

(b) The money shall be allocated for the construction of such facilities pursuant to a priority list of such facilities prepared by the transportation planning agency for the area within its jurisdiction.

(c) The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionments to a city or county for purposes of Sections 99233.7 to 99233.9, inclusive.

(d) The transportation planning agency shall review its allocations made pursuant to Section 99233.3 within 30 days after receiving a request for such review from any city or county in the area within the jurisdiction of the transportation planning agency.

SEC. 16.2. Section 99241 of the Public Utilities Code is amended to read:

99241. Except for allocations made for purposes of Section 99234 and subdivision (a) of Section 99400, which shall be subject to the rules and regulations adopted by the transportation planning agency, all matters necessary and convenient to the implementation of this chapter shall be subject to rules and regulations, consistent with statute, adopted by the secretary, with the advice and consent of the State Transportation Board, and those rules and regulations may be revised from time to time.

Such rules and regulations shall specify the procedures by which evaluation and review by the transportation planning agency of public transportation claims shall be accomplished, and shall require submission of corresponding budgets or financial plans, certified financial statements, and other information required in connection therewith. The rules and regulations shall provide for the orderly and periodic distribution of moneys in the fund so that the areas served by the operator will be provided public transportation services on a continuing basis and so that there will be an orderly improvement and maintenance of the system of the operator. The rules and regulations shall provide for the approval of sufficient moneys from the local fund to accomplish the intent of the Legislature as expressed in the findings and declarations in Section 99220.

Such rules and regulations may require that the transportation planning agency, in reviewing claims, give due consideration to the level of the operator's passenger fares and charges, the efficiency of the operator's operations and operating policies and practices, the extent to which the operator is meeting the transportation needs of the area served, and the extent to which the operator is making full use of other available revenues and funds, including federal transportation grants.

Rules and regulations adopted by the secretary with respect to reporting and auditing procedures shall apply to all expenditures of funds allocated pursuant to this chapter.

SEC. 16.5. Section 99243 is added to the Public Utilities Code, to read:

99243. (a) The State Controller, in cooperation with the Department of Transportation of this state and the operators, shall design and adopt a uniform system of accounts and records, from which the operators shall prepare and submit annual reports of their operation to the transportation planning agencies having jurisdiction over them. The report shall specify (1) the amount of revenue

generated from each source and its application for the prior fiscal year and (2) the estimated amount of revenues to be generated from each source and its proposed application for the next succeeding fiscal year.

(b) In establishing the uniform system of accounts and records, the State Controller shall include the data required by the United States Department of Transportation, the Department of Transportation of this state, and the Business and Transportation Agency.

(c) The uniform system of accounts and records shall be implemented not later than January 1, 1978.

SEC. 17. Section 99260.2 is added to the Public Utilities Code, to read:

99260.2. (a) Claims may be filed with the transportation planning agency by operators to contract with common carriers of persons operating under a franchise or license to provide transportation services during peak hours.

(b) For purposes of this section, "peak hours" means the period of time during a day which have a clearly greater-than-average level of patronage, typically the two periods of time which reflect the influx of home-work and work-home patronage on a transportation system.

SEC. 18. Section 99266.7 is added to the Public Utilities Code, to read:

99266.7. On and after July 1, 1977, no operator shall be eligible for allocation under this article if it routinely staffs with two or more persons a vehicle for public transportation purposes designed to be operated by one person.

SEC. 18.5. Section 99267.5 of the Public Utilities Code is amended to read:

99267.5. Notwithstanding Sections 99268 and 99268.5, if federal funds or assistance grants are made available on a matching basis for the operating expenditures of public transportation systems, any operator may budget and expend for operating purposes funds received under this article in an amount sufficient to enable the operator to receive the maximum amount of federal funds or assistance grants available for such purposes.

This section shall remain in effect only until June 30, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1980, deletes or extends such date.

SEC. 19. Section 99268.5 of the Public Utilities Code is amended to read:

99268.5. (a) The limitations of Sections 99267 and 99268 shall not apply to funds allocated for the operation of a public transportation system by an operator during the operator's first five fiscal years of operation, or to funds allocated for the extension of public transportation services as a result of territorial annexation or pursuant to the provisions of Section 99288 for the first five fiscal years of extension of such services, and which operation or extension

of service began after June 30, 1972.

(b) Commencing July 1, 1977, the expenditure of the funds received under this article during the fifth year of operation of a public transportation system, or of such extension of public transportation services, shall not exceed 75 percent of the amount required to meet operating, maintenance, and capital and debt service requirements of the system or extension, as the case may be, after deduction therefrom of approved federal grants estimated to be received for the system or extension.

SEC. 19.5. Section 99268.6 is added to the Public Utilities Code, to read:

99268.6. If a joint powers entity providing public transportation services was funded at any time pursuant to Section 99268.5 and is subsequently dissolved, any succeeding joint powers entity providing such services shall not be eligible for funding under that section except for that portion of a five-year period during which the prior joint powers entity was not funded under that section.

SEC. 20. Section 99268.7 is added to the Public Utilities Code, to read:

99268.7. Any unallocated funds resulting from the limitations of Sections 99268, 99268.5, and 99269 may be used for capital intensive transit-related improvements, including, but not limited to, park-and-ride lots, terminal facilities, bus waiting shelters, and exclusive lanes for buses.

SEC. 20.2. Section 99268.8 is added to the Public Utilities Code, to read:

99268.8. An operator in a county with a population of less than 500,000, as determined by the 1970 federal decennial census, may be relieved of the requirements of Sections 99268 and 99268.5 for a period not to exceed two years by the State Transportation Board if the board finds all of the following:

(a) The service being provided by the operator is in conformity with the regional transportation plan.

(b) Efforts have been made by the operator to obtain other available funds.

(c) The service provided by the operator is being efficiently managed.

(d) There are unique patterns of development and service which contribute to an unusually low ratio of passengers per vehicle mile.

(e) There is a transit-dependent population isolated in sparsely settled areas.

SEC. 20.3. Section 99268.9 is added to the Public Utilities Code, to read:

99268.9. An operator seeking a waiver from the requirements of Sections 99268 and 99268.5 shall submit an application therefor to the Department of Transportation for evaluation on the basis of the criteria set forth in Section 99268.8. The department shall submit its recommendations to the State Transportation Board, on the application within 60 days after receiving it.

The board shall expeditiously act on the application, and shall condition any waiver granted that the operator improve its operational efficiency to achieve a specified goal to minimize its operational deficits by the end of the waiver period and shall impose any other condition on the waiver it deems appropriate to improve the operational efficiency of the operator.

SEC. 20.5. Section 99269 of the Public Utilities Code is amended to read:

99269. No money shall be allocated from the fund nor expended by any operator which evidences a reduction in money made available and expended for public transportation systems from all local sources, except from fares and from funds allocated from the State and Local Government Fiscal Assistance Trust Fund, below the average of such funding for the two preceding fiscal years.

SEC. 21. Article 4.5 (commencing with Section 99275) is added to Chapter 4 of Part 11 of Division 10 of the Public Utilities Code, to read:

Article 4.5. Claims for Community Transit Services

99275. (a) Claims may be filed with the transportation planning agency by claimants for community transit services, including such services for those, such as the disabled, who cannot use conventional transit services.

(b) For purposes of this article, "community transit services" means transportation services which link intracommunity origins and destinations.

99275.5. (a) Claims, for purposes of this article, shall be filed in the same manner as claims are filed for purposes of Article 4 (commencing with Section 99260).

(b) The transportation planning agencies shall adopt criteria, rules, and regulations for the evaluation of claims filed under this article and the determination of the cost effectiveness of the proposed community transit services to be provided under the claims.

(c) Prior to approving a claim filed under this article, the transportation planning agency shall make all of the following findings:

(1) That the proposed community transit service is responding to a transportation need currently not being met in the community of the claimant.

(2) That the service shall be integrated with existing transit services, if appropriate.

(3) That the claimant has an adequate management information system to facilitate evaluation pursuant to Section 99279.

(4) That the claimant has prepared an estimate of revenues, operating costs, and patronage and a marketing program.

(5) That a reasonable farebox recovery, in relation to other operators in the county, of cost of operation is proposed by the

claimant.

99276. Funds allocated for purposes of this article shall be subject to audits by the transportation planning agency pursuant to Section 1661 of Title 21 of the California Administrative Code.

99277. Claimants may contract, on the basis of competitive bidding, with operators, common carriers of persons operating under a franchise or license, or nonprofit corporations organized pursuant to Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code to provide community transit services.

99278. The transportation planning agencies shall allocate the money available for claims filed under this article only for those programs that will demonstrate the feasibility of community transit services.

99279. The Auditor General, in cooperation with the Legislative Analyst and the Department of Transportation, shall initiate an evaluation of this program of community transit services not later than July 1, 1979. Among the factors to be considered in the evaluation are a comparison of operating and maintenance cost per passenger-mile of the various community transit service programs funded and the transportation needs met by such programs. A report containing conclusions and recommendations shall be submitted to the Legislature not later than January 1, 1980.

99279.5. This article shall remain in effect only until July 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1980, deletes or extends such date.

SEC. 22. Section 99301 is added to Chapter 6 (commencing with Section 99302) of Part 11 of Division 10 of the Public Utilities Code, immediately preceding Section 99302, to read:

99301. Interest earned on funds allocated pursuant to this chapter shall be expended only for those purposes for which the funds were allocated.

SEC. 23. Section 99400 of the Public Utilities Code, as amended by Chapter 287 of the Statutes of 1975, is amended to read:

99400. Claims may be filed with the transportation planning agency by cities and counties under this article for the following purposes:

(a) Local streets and roads, including facilities provided for the exclusive use by pedestrians and bicycles.

(b) Payments to the National Railroad Passenger Corporation for passenger rail service under Section 403(b) of the Federal Rail Passenger Service Act.

(c) Payment to any of the following entities which are under contract with a county or a city for public transportation and for transportation services for any group, as determined by the transportation planning agency, requiring special transportation assistance:

(1) A common carrier, as defined in Section 211, engaged in the transportation of persons, as defined in Section 208.

(2) A private corporation operating under a franchise or license.

(3) A nonprofit corporation organized pursuant to Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code.

(4) An operator.

If the county or the city is being served by an operator, the contract entered into by such a county or city with an entity specified in paragraph (2) or (3) of subdivision (c) shall specify the level of service to be provided, the operating plan to implement that service, and how that service is to be coordinated with the public transportation service provided by the operator.

This section shall remain in effect only until July 1, 1980, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1980, deletes or extends such date.

SEC. 24. Section 99405 of the Public Utilities Code is amended to read:

99405. (a) The allocation for any purpose specified in Section 99400 may in no year exceed 50 percent of the amount required to meet the city's or county's total proposed expenditures for that purpose.

(b) With respect to budgeted capital requirements for major new facilities, the transportation planning agency, notwithstanding the 50-percent limitation, may allocate up to the amount so budgeted, if the construction of such facilities has been found to be not inconsistent with the transportation planning agency's regional transportation plan.

SEC. 25. The Auditor General shall conduct a study to determine (a) methods to minimize the operational deficits and to evaluate the efficiency of public transportation systems, and (b) the adequacy of fiscal and management audit requirements of all funds expended under the Mills-Alquist-Deddeh Act (Chapter 4 (commencing with Section 99200), Part 11, Division 10 of the Public Utilities Code), and submit a report thereon, together with his comments and recommendations, to the Legislature not later than January 31, 1977.

To provide assistance and guidance in conducting the study, the Auditor General shall appoint an advisory committee consisting of representatives from public transportation system operators, county and city governments, regional transportation planning agencies, organizations of public transportation system employees, and the Department of Transportation.

SEC. 26. It is the intent of the Legislature, if this bill and Assembly Bill No. 1246 are both chaptered and become effective January 1, 1977, and both bills amend Section 99233 of the Public Utilities Code, and this bill is chaptered after Assembly Bill No. 1246, that the amendments to Section 99233 be given effect and incorporated in Section 99233.2 in the form set forth in Section 4.5 of this act. Therefore, Section 4.5 of this act shall become operative only if this bill and Assembly Bill No. 1246 are both chaptered and become effective January 1, 1977, both amend Section 99233, and this bill is chaptered after Assembly Bill No. 1246, in which case Section 4 of this

act shall not become operative.

CHAPTER 1349

An act to amend Section 13990.6 of, and to repeal Chapter 3 (commencing with Section 13995) of Part 4.6 of Division 3 of Title 2 of, the Government Code, to amend Section 21682.5 of, to add Article 6.5 (commencing with Section 99310) to Chapter 4 of Part 11 of Division 10 of, and to repeal Section 99305 of, the Public Utilities Code, to amend Sections 194, 194.5, and 2233 of, to add Section 199.5 to, and to add Chapter 4.6 (commencing with Section 2170) to Division 3 of, the Streets and Highways Code, and to amend Section 3 of Chapter 1130 of the Statutes of 1975, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 13990.6 of the Government Code is amended to read:

13990.6. The functions and duties of the board shall be to advise and assist the Secretary of the Business and Transportation Agency and the Legislature in formulating and evaluating state policy and plans for transportation programs within the state. In addition it shall perform the following specific duties:

(a) Direct the State Transportation Board Office.

(b) Request and review reports from the Director of Transportation and other sources as it may determine, pertaining to public financial participation in transportation system development, planning, construction, and operation, including the extent and nature of participation by local, regional, state, and federal governments.

(c) Review transportation plans for major portions of the overall statewide transportation system, including, but not limited to, such plans as the California Freeway and Expressway System, the State Aviation Master Plan, and regional plans developed by transportation planning agencies, and adopt a California Transportation Plan.

(d) Review the transportation implications of major statewide and regional comprehensive general plans, including, but not limited to, such plans as the State Environmental Goals and Policy Report, the State Parks and Recreation Plan, and the comprehensive plans of areawide planning agencies.

(e) Based upon such reviews of financing and master plans, present such advice and recommendations as it deems appropriate to the Secretary of the Business and Transportation Agency and the Legislature.

(f) Assist, if so requested, in the determination of geographic boundaries of regional transportation districts, utilizing wherever possible the logical groupings of cities and counties as established by existing planning agencies, and provide appropriate recommendations to the secretary and to the Legislature for their establishment.

(g) Assist any appropriate committee of the Legislature whose activities relate to the transportation field, if requested, in the field of overall balanced transportation, or any segment thereof.

(h) Review the annual budgets of the Department of Transportation for consistency with the California Transportation Plan and transmit them, and the comments of the board as to such consistency of projects included in the budget that are funded from the Transportation Planning and Research Account in the State Transportation Fund pursuant to Section 99316 of the Public Utilities Code, to the Department of Finance.

(i) Approve, prior to the Department of Transportation submitting its budget report to the Governor, proposed allocations from the Transportation Planning and Research Account in the State Transportation Fund to the department, and to transportation planning agencies established pursuant to Section 29532, for transportation planning.

(j) Monitor progress on the implementation of the California Transportation Plan.

SEC. 1.5. Chapter 3 (commencing with Section 13995) of Part 4.6 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 2. Section 21682.5 of the Public Utilities Code is amended to read:

21682.5. The department shall pay, from the Aeronautics Account to the Transportation Planning and Research Account in the State Transportation Fund, a sum equal to the pro rata share of the comprehensive transportation duties attributable to aviation planning and research, as determined by the Secretary of the Business and Transportation Agency.

SEC. 3. Section 99305 of the Public Utilities Code is repealed.

SEC. 4. Article 6.5 (commencing with Section 99310) is added to Chapter 4 of Part 11 of Division 10 of the Public Utilities Code, to read:

Article 6.5. Transportation Planning and Research Account

99310. (a) The Transportation Planning and Research Account in the State Transportation Fund created by Section 99305, hereafter referred to as the "account" in this article, is hereby continued in existence.

(b) The Transportation Planning and Research Account in the State Transportation Fund created by Section 13995 of the Government Code is hereby abolished, and all funds therein are

hereby transferred to the account.

99311. The funds in the account shall be available, when appropriated by the Legislature, for transportation purposes as specified in this article.

99312. Upon appropriation by the Legislature, funds transferred, or scheduled as a reimbursement, to the account pursuant to Section 21682.5 of this code and Sections 194 and 194.5 of the Streets and Highways Code, shall be available for allocation by the Secretary of the Business and Transportation Agency for the following purposes:

(a) State transportation planning.

(b) Regional transportation planning by transportation planning agencies designated pursuant to Section 29532 of the Government Code.

99313. Excluding the amount appropriated for purposes of Chapter 4.6 (commencing with Section 2170) of Division 3 of the Streets and Highways Code from the funds transferred to the account pursuant to subdivision (a) of Section 7102 of the Revenue and Taxation Code, not more than one-half of the remaining funds, upon appropriation by the Legislature, shall be available for allocation by the Secretary of the Business and Transportation Agency for the following purposes:

(a) Transportation planning as specified in Section 99312.

(b) Training and research by the Institute of Transportation and Traffic Engineering of the University of California in public transportation systems engineering and management and coordination with other transportation modes.

99314. The amount allocated to a transportation planning agency designated pursuant to Section 29532 of the Government Code, for the preparation or updating of a regional transportation plan pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of that code, may be up to 70 percent of its nonfederally reimbursed costs for regional transportation planning.

For a transportation planning agency in a county with a population of less than 500,000 persons, the Secretary of the Business and Transportation Agency may increase that percentage, if the secretary determines it to be in the best interests of regional and state transportation planning to do so.

99315. Excluding the amount appropriated for purposes of Chapter 4.6 (commencing with Section 2170) of Division 3 of the Streets and Highways Code from the funds transferred to the account pursuant to subdivision (a) of Section 7102 of the Revenue and Taxation Code, not less than one-half of the remaining funds, upon appropriation by the Legislature, shall be available to fund the construction of public transportation projects to improve the interface of various transportation modes.

99316. In order to aid the Legislature in determining which projects should be funded pursuant to Section 99315, the Department of Transportation shall develop criteria for the evaluation of proposed projects.

The department shall submit annually, not later than January 10th, to the Legislature a report on the evaluation of submitted proposed projects and their recommended priorities for funding. The report shall also include a statement on projects being funded and an evaluation of projects completed.

SEC. 5. Section 194 of the Streets and Highways Code is amended to read:

194. In each annual budget report prepared by the commission and the department under Section 143.1, the commission shall allocate to the Transportation Planning and Research Account in the State Transportation Fund, a sum equal to the pro rata share of the comprehensive transportation planning duties attributable to highway and to exclusive public mass transit guideway planning and research, as determined by the Secretary of the Business and Transportation Agency in consultation with the commission.

SEC. 6. Section 194.5 of the Streets and Highways Code is amended to read:

194.5. In each annual budget report prepared by the commission and the department pursuant to Section 143.1, the commission shall include an allocation, to the Transportation Planning and Research Account in the State Transportation Fund, equal to the estimated federal apportionment to be received during the fiscal year by the state for metropolitan transportation planning pursuant to subsection (f) of Section 104 of Title 23 of the United States Code.

SEC. 7. Section 199.5 is added to the Streets and Highways Code, to read:

199.5. If more than one exclusive public mass transit guideway project from a county is submitted to the State Transportation Board for review pursuant to Section 199, the board shall determine the priority of the proposed projects on the basis of the extent the proposed projects meet the regional transportation needs.

SEC. 8. Section 2233 of the Streets and Highways Code is amended to read:

2233. Amounts apportioned to the state pursuant to subsection (f) of Section 104 of Title 23 of the United States Code and allocated pursuant to Section 194.5 shall be identified in the budget of the Transportation Planning and Research Account in the State Transportation Fund as a scheduled reimbursement. Amounts reimbursed to the state pursuant to subsection (f) of Section 104 of Title 23 of the United States Code shall be deposited in the State Highway Account in the State Transportation Fund and credited to the Transportation Planning and Research Account as an expense and reimbursement. All such funds apportioned to the state are available, when appropriated by the Legislature, for allocation by the Secretary of the Business and Transportation Agency from the Transportation Planning and Research Account to metropolitan transportation planning organizations, as defined by federal law and regulations, to perform the metropolitan transportation planning authorized by subsection (f) of Section 104 of Title 23, but shall be

subject to the provisions of Sections 13320 to 13324, inclusive, of the Government Code.

SEC. 9. Chapter 4.6 (commencing with Section 2170) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 4.6. INTERCITY CORRIDOR DEMONSTRATION PROGRAM

2170. The Legislature finds as follows:

(a) The Sacramento-Stockton-San Francisco corridor and the Los Angeles-San Diego corridor represent unique locations for multimodal transportation demonstration programs with modern low-capital intensive transportation improvement techniques to encourage greater utilization of ground public transportation facilities.

(b) The conclusions and recommendations contained in the Sacramento-Stockton-San Francisco Bay Area Corridor Study, filed with the Legislature in February of 1975, contained a number of proposals that should be implemented on a demonstration basis.

(c) The conclusions and recommendations contained in the report relating to the Los Angeles-San Diego corridor prepared pursuant to Chapter 1427 of the Statutes of 1974 also contained a number of proposals that should be implemented on a demonstration basis.

2171. The department shall undertake three-year demonstration projects to encourage improved ground public transit services along the Sacramento-Stockton-San Francisco corridor and along the Los Angeles-San Diego corridor. The projects shall consist of the following three elements—project administration and evaluation as described in Section 2172, low-capital intensive improvement programs as described in Sections 2173 and 2176.5, and operating assistance as described in Sections 2174, 2175, and 2176.

2172. The department shall be responsible for the administration, implementation, marketing, and evaluation of the projects. The department shall seek the assistance of an advisory group for each project.

The Secretary of the Business and Transportation Agency shall appoint the advisory groups, which shall include representatives from user groups, consumer groups, the various public and private transit operators serving the area in which the corridor is located, the transportation planning agencies having jurisdiction of the areas within the corridor, the Public Utilities Commission, and other public and private entities affected by the project.

2173. From funds appropriated for such purposes, the Secretary of the Business and Transportation Agency shall enter into an agreement with the National Railroad Passenger Corporation, pursuant to Section 403(b) of the National Railroad Passenger Service Act of 1970 (45 U.S.C. 563(b)), for improvement of railroad track and passenger facilities along the Sacramento-Oakland and Los

Angeles-San Diego corridors.

First priority shall be given to those improvements which the secretary determines make possible time savings, such as those identified in the report prepared pursuant to Chapter 1427 of the Statutes of 1974.

2174. From funds appropriated for such purposes, the Secretary of the Business and Transportation Agency shall enter into an agreement with the National Railroad Passenger Corporation, pursuant to Section 403(b) of the National Railroad Passenger Service Act of 1970 (45 U.S.C. 563(b)), for additional passenger rail service along the Sacramento-San Francisco and Los Angeles-San Diego corridors. Contracts providing for these services shall be executed so that service may begin not later than July 1, 1977.

2174.5. No funds shall be allocated for improvements along the Los Angeles-San Diego corridor until the director determines that an average of four or more passenger trains per day are operating over the facilities to be improved.

2175. From funds appropriated for such purposes, the Secretary of the Business and Transportation Agency may undertake a program to provide feeder bus service between major population or activity centers and the nearest rail terminal served under Section 2174. Such service shall be provided by operators, as defined in Section 99210 of the Public Utilities Code, or by passenger stage corporations, as defined in Section 226 of the Public Utilities Code.

2176. From funds appropriated for such purposes, the Secretary of the Business and Transportation Agency may undertake a program to provide express bus service between Stockton and the San Leandro station of the San Francisco Bay Area Rapid Transit District. Such service shall be provided by operators, as defined in Section 99210 of the Public Utilities Code, or by passenger stage corporations, as defined in Section 226 of the Public Utilities Code.

2176.5. From funds appropriated for such purposes, the Secretary of the Business and Transportation Agency may undertake the construction of intermodal transfer facilities located in conjunction with other rail and bus facilities in communities between Stockton and communities in the San Francisco Bay area.

2177. From funds appropriated by Section 4 of Chapter 1130 of the Statutes of 1975, the Secretary of the Business and Transportation Agency shall make allocations to extend corridor rail services beyond the terminals identified in Section 2171 to population and activity centers which the secretary determines would give the greatest increase in patronage, relative to cost.

2178. The department shall seek federal and local financial assistance in financing the projects.

2179. Prior to the conclusion of the three-year demonstration period, the department shall prepare and submit to the Legislature a report concerning each project. The report shall contain a critical evaluation of the project, together with recommendations for future legislative action. In addition, the department shall submit an annual

progress report to the Legislature during the course of each project.

2180. When considering the feasibility of rail access from the San Francisco Bay area to Sacramento and Stockton, the department shall explore, for future development, the feasibility of providing such access through connection to the San Francisco Bay Area Rapid Transit District transit system in the vicinity of corridors formed by State Highway Routes 4, 24, and 680. The department, in consultation with the district, shall also explore the feasibility of limited extension of the district's rail system to the vicinity of Concord along the Sacramento Northern rights-of-way.

2181. The department, in consultation with the Metropolitan Transportation Commission, shall explore alternate transportation uses of the Southern Pacific Transportation Company rail line proposed to be abandoned between railroad post mile 42.6 in the vicinity of Concord and railroad post mile 63.5 in the vicinity of Dougherty. When exploring alternate uses, the department shall consider use of the line for light rail vehicles, as well as other uses. The department shall report its findings and recommendations to the State Transportation Board and the Public Utilities Commission not later than July 1, 1977.

SEC. 10. Section 3 of Chapter 1130 of the Statutes of 1975 is amended to read:

Sec. 3. The Department of Transportation shall acquire:

(a) That portion of the Sacramento Northern Railroad property within the City of Fairfield in the County of Solano consisting of three parcels lying northeast and southwest of the intersection of Travis Boulevard and Pennsylvania Avenue.

(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.

(d) That portion of Southern Pacific Transportation Company property within the City of Riverside in the County of Riverside along Magnolia Street from the southwesterly city limits to Banbury Street.

SEC. 11. The sum of one million dollars ($1,000,000) of the funds appropriated by subdivision (b) of Section 16 of Chapter 1130 of the Statutes of 1975 shall be used for purposes of the demonstration program in the San Francisco-Sacramento-Stockton corridor established pursuant to Chapter 4.6 (commencing with Section 2170) of Division 3 of the Streets and Highways Code. Notwithstanding the provisions of Section 4 of Chapter 1130, such funds shall be available for expenditure without regard to fiscal year.

SEC. 12. The sum of seven million one hundred eighty-nine thousand seven hundred seventy-two dollars ($7,189,772) is hereby

appropriated from the Transportation Planning and Research Account, as created in the State Transportation Fund by Section 99305 of the Public Utilities Code, for expenditure without regard to fiscal years for the following purposes:

(a) One million dollars ($1,000,000) to the Department of Transportation for the purposes described in Section 2172 of the Streets and Highways Code.

(b) Three million fifty thousand dollars ($3,050,000) to the Secretary of the Business and Transportation Agency for allocation in the Sacramento-Stockton-San Francisco corridor as follows:

(1) One hundred fifty thousand dollars ($150,000) for rail passenger facilities as provided for in Section 2173.

(2) Nine hundred fifty thousand dollars ($950,000) for rail passenger service as provided for in Section 2174, which amount shall be in addition to the amount specified in Section 11 of this act.

(3) One hundred fifty thousand dollars ($150,000) for bus passenger feeder service as provided for in Section 2175.

(4) Three hundred sixty thousand dollars ($360,000) for bus passenger services as provided for in Section 2176.

(5) One hundred forty thousand dollars ($140,000) for a bus passenger facility in the San Francisco Bay area as provided for in Section 2176.5.

(6) Three hundred thousand dollars ($300,000) for freeway transfer facilities for passengers of buses as provided for in Section 2176.5.

(c) Three million one hundred fifty thousand dollars ($3,150,000) to the Secretary of the Business and Transportation Agency for allocation in the San Diego-Los Angeles corridor as follows:

(1) Three hundred fifty thousand dollars ($350,000) for rail passenger facilities as provided for in Section 2173.

(2) One million six hundred fifty thousand dollars ($1,650,000) for rail track facilities as provided for in Section 2173.

(3) One million dollars ($1,000,000) for rail passenger service as provided for in Section 2174.

(4) One hundred fifty thousand dollars ($150,000) for bus passenger feeder service as provided for in Section 2175.

(d) Nine hundred eighty-nine thousand seven hundred seventy-two dollars ($989,772) to the State Transportation Board for allocation pursuant to Section 2233 of the Streets and Highways Code.

CHAPTER 1350

An act to amend Sections 1502 and 1507 of the Health and Safety Code and to add Chapter 5 (commencing with Section 9400) to Division 8.5 of, and to add Section 14124.7 to, the Welfare and Institutions Code, relating to senior center programs.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter, "community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons, and includes the following:

(a) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(b) "Day care center" means any facility which provides nonmedical care to persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(c) "Homefinding agency" means any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

(d) "Multipurpose senior center" means a center established pursuant to Chapter 5 (commencing with Section 9400) of Division 8.5 of the Welfare and Institutions Code.

SEC. 2. Section 1507 of the Health and Safety Code is amended to read:

1507. A community care facility may provide incidental medical services. If such medical services constitute a substantial component of the services provided by the community care facility as defined by the director in regulations, such component shall be required to obtain approval as provided by Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250), except that no separate license shall be required for a multipurpose senior center. However, the director shall adopt regulations for the administration of any medical services provided by a multipurpose senior center.

SEC. 3. Chapter 5 (commencing with Section 9400) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 5. MULTIPURPOSE SENIOR CENTERS

Article 1. General Provisions and Definitions

9400. It is the object and purpose of this chapter to prevent premature disengagement of older persons from their indigenous communities and subsequent commitment to institutions; to prevent social isolation of older persons within their indigenous community;

to provide optimum accessibility of various important community resources available to assist older persons maintain independent living; to ensure the most efficient and productive use of public funds for these above purposes; and to integrate the senior service system so that the moderately impaired or frail older person who has the capacity to remain in an independent living situation has access to the services in a multipurpose center, either together with the nonimpaired person, or by himself, whichever is deemed appropriate by the professional staff.

9401. "Agency" means Health and Welfare Agency

9402. "Older person" means a person of age 55 years or older.

9403. "Center" means multipurpose senior center.

Article 2. Administration

9425. In addition to any other of its powers the agency shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

9426. The agency shall (a) administer the provision of this chapter, (b) formulate, adopt, amend or repeal regulations and general policies affecting the purposes, responsibilities and jurisdiction of the agency and which are consistent with law and necessary for the administration of this chapter, (c) formulate and promulgate criteria by which multipurpose senior centers are to be approved.

Article 3. Qualifications

9450. Each multipurpose senior center shall provide, but not be limited to, the following programs:

(a) A program in an ambulatory care setting for impaired adults who do not require 24-hour institutional care and yet due to physical or mental impairment or both are incapable of full-time independent living.

(b) A planned schedule of services and activities for its clients at the center.

(c) A planned schedule of services for homebound clients.

9451. The agency shall develop criteria for each center which shall be based on the needs of the area to be served.

9452. A center shall offer at least the following services:

(a) General nursing services under the supervision of a registered nurse, and under a treatment plan developed by a multidisciplinary health team. This service shall include the monitoring of each participant's health status and the administration of medications and treatment in compliance with the physician's orders.

(b) Emergency services for dealing with emergency situations. There shall be written directions including the name and telephone number of a physician on call and written arrangements with a

nearby hospital for inpatient and emergency room care and ambulance transportation.

(c) Rehabilitative services including, as a minimum, physical therapy, occupational therapy, therapeutic recreation, and speech therapy services prescribed by a physician which are provided by the center program directly or indirectly through arrangements with qualified outside resources and which are designed to improve or maintain ability for independent functioning.

(d) Personal care services which include assistance with activities of daily living and supervision of personal hygiene.

(e) Nutrition services which may include a minimum of one hot meal per day to each participant which is of suitable quality and quantity and supplies at least one-third of the recommended dietary allowance of the National Research Council. Special diets and supplemental feedings may be available if indicated. Morning and afternoon snacks may be provided. Education on diet, food purchasing and cooking may be provided.

(f) Social work services which are designed to promote maintenance of physical and mental health by alleviating personal and social problems. Such services may include guidance or referral in social, financial and legal matters, assistance with housing relocation and shopping, counseling on available community resources, and coordination of the use of such services.

(g) Activities for participants which may provide planned recreational and social activities and educational involvement suited to the needs of the participants and are designed to encourage physical exercise, prevent deterioration and stimulate social interaction. A community involvement program covering voter registration, government and planning a cultural program may be provided. Instructors to conduct programs in craft, music, and various other hobbies and trips and camping may be provided.

(h) Transportation, when indicated, for participants to and from their homes and to other community facilities utilized in implementing the patient-care plan.

(i) Income maintenance, counseling and referral services which may include governmental benefits and pensions, banking investment, consumer buying and protection, retirement counseling and employment services.

9453. Center services may also include:

(a) Health maintenance programs to attain maximum well-being including programs conducted in physical fitness, nutrition, and health and special activities for individuals with limited vision, hearing loss and other physical limitations and which may be provided by the appropriate health professional.

(b) Education programs which include discussion groups and speakers to stimulate interest in current issues and classes in language skills and various occupations as well as leadership training and group awareness programs to encourage greater social involvement.

(c) Special vehicles to libraries, museums, doctor's offices, grocery stores and shopping centers that are difficult to reach by public or other private transportation may be provided.

(d) Legal services.

9454. Each center shall maintain a board of directors which shall reflect the ethnic composition of the area served and the membership of which shall be composed of at least 55 percent of the elderly clients of the center, who shall be elected by the clients of the center within six months of establishment of the center. Membership on the board shall be for a term of three years and no person may serve more than two consecutive terms.

Article 4. Fiscal Provisions

9475. The agency shall seek and utilize any available federal funds and for such purpose shall establish such standards as are necessary in order to qualify multipurpose senior centers or any services rendered by multipurpose senior centers for such federal funds.

9476. The development of standards by the agency for licensed multipurpose senior centers shall not preclude the continuing existence and development of other facilities providing services to seniors; provided, however, that only such licensed centers meeting standards developed by the agency may hold themselves out as multipurpose senior centers and are eligible for funds made available for such centers.

9477. The agency shall request such waivers of single state agency requirements as are necessary under the Intergovernmental Cooperation Act of 1968, and such other federal requirements as are necessary in order to utilize available federal funds for the purposes of this chapter.

9478. From state funds appropriated for such purpose, funds shall be transferred by the Director of Finance upon certification by the agency that the "in-kind" contributions of a private, state or local governmental agency is not sufficient to secure adequate federal funds for the purposes of a multipurpose senior center or any services of such center.

SEC. 4. Section 14124.7 is added to the Welfare and Institutions Code, to read:

14124.7. In addition to any other pilot or demonstration projects authorized under the Medi-Cal Act the director may by contract with any organization conduct experimental programs to provide day care services under Section 1115, Title XI of the Social Security Act and Section 222 of Public Law 92-603 for individuals eligible to enroll in the supplemental medical insurance program established under Part B of Title XVIII and Title XIX with the approval and subject to the requirements of the Secretary of Health, Education and Welfare. The director may enter into such agreements, waive specific statutory requirements, and secure such waivers of federal

requirements, standards, and regulations as are necessary in order to carry out the provisions of this section. The director shall seek and utilize any funds made available by the federal government or any other source for the purpose of this section.

Notwithstanding Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, the director shall establish a special license for adult day care centers, also known as day health service centers, established under this section and adopt regulations for the administration of any medical and other services provided by such centers pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

CHAPTER 1351

An act to amend Section 1343 of the Health and Safety Code, and to amend Section 14157 of, and to repeal and add Section 14310 to, the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 1343 of the Health and Safety Code is amended to read:

1343. (a) The provisions of this chapter shall apply to health care service plans and specialized health care service plans as defined in subdivisions (f) and (m) of Section 1345.

(b) The commissioner may by the adoption of such rules as deemed necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from the provisions of this chapter any class or persons or plan contracts, if the commissioner finds such action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and that the regulation of such persons or plan contracts is not essential to the purposes of this chapter.

(c) The commissioner, upon request of the Director of Health, may exempt from the provisions of this chapter any pilot program contracting with the State Department of Health pursuant to Section 14310 of the Welfare and Institutions Code. Such exemption may be subject to such conditions as the commissioner deems appropriate.

(d) The provisions of this chapter shall not apply to:

(1) A person organized and operating pursuant to a certificate issued by the Insurance Commissioner unless the entity is directly providing the health care service through such entity-owned or

contracting health facilities and providers, in which case the provisions of this chapter shall apply to the insurer's plan and to the insurer.

(2) A plan directly operated by bona fide public or private institution of higher learning which directly provides health care services only to its students, faculty, staff, administration, and their respective dependents.

(3) A nonprofit corporation formed under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(e) The provisions of Section 1357 shall not apply to:

(1) A plan, or to any officer, director, or partner of a plan acting in the course of their employment by such plan, unless such officer, director, or partner receives compensation specifically related to the sale of subscriptions or enrollments to the plan.

(2) A provider, or an employee of a provider or of a plan, who disseminates information about the plan only incidentally to such employment and at the unsolicited request of a subscriber, enrollee, or member of the public.

(3) A person who disseminates information concerning plans and plan benefits only as a public employee, only as an employee or representative of a subscriber group, or only as an employee of a person contracting with a plan on behalf of subscribers or enrollees.

SEC. 2. Section 14157 of the Welfare and Institutions Code is amended to read:

14157. There is hereby established a Health Care Deposit Fund from which expenditures of state, county and federal funds for health care and administration under this chapter and Chapter 8 (commencing with Section 14200) shall be made upon order of the Controller in accordance with certifications made by the Director of Benefit Payments.

The Controller shall deposit in this fund all federal funds as received under the provisions of Title XIX of the Social Security Act and all county funds received under this chapter.

All money in the Health Care Deposit Fund is hereby appropriated, for expenditure for the purposes specified in this chapter and Chapter 8 (commencing with Section 14200).

SEC. 3. Section 14310 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 14310 is added to the Welfare and Institutions Code, to read:

14310. (a) In providing benefits under this chapter and Chapter 7 the director shall aggressively seek the development of alternative forms of financing and delivering health care services. The director shall, in carrying out the intent of this section, contract with institutional providers, counties, or other organizations to establish pilot programs which demonstrate the value, or lack thereof, of such a program in delivering or financing health care services in such a manner. Each pilot program shall be for a specified duration not to

exceed four years and each pilot program shall be evaluated annually for its efficiency, effectiveness, and quality.

(b) The director shall pursue the feasibility of establishing the following as pilot programs:

(1) A capitated, risk assuming contract with one or more regional fiscal intermediaries.

(2) A capitated, risk assuming contract with acute care hospitals within a county or region.

(3) A capitated, risk assuming contract with one or more organizations which provide payment to a specified class or classes of providers.

Persons eligible for services under Section 14005 may be assigned by the department to a prepaid health plan which affords any qualified Medi-Cal providers within the service area an opportunity to participate in the plan under reasonable restrictions approved by the department, provided, however, such persons shall be entitled to request and receive a Medi-Cal card if assignment to a plan does not meet with their satisfaction.

For purposes of this section, "risk assuming" means the pilot program contractor agrees to assume the risk of utilization of services or costs of services, or both.

(c) The department shall establish publicly operated health service delivery systems as pilot programs, to determine whether high-quality, comprehensive Medi-Cal benefits can be provided at a reasonable cost on a prepayment basis in a public service system. To the extent possible, the department shall establish programs in both rural and urban areas. The rural and urban areas designated for the programs shall be medically underserved to meet the health needs of the Medi-Cal population as determined by the director. The pilot programs shall have at least the following characteristics:

(1) The programs shall be publicly operated either by the department directly or through contract with other public entities.

(2) The programs may be regional in nature, extending beyond the boundaries of any one county.

(3) The programs shall enroll Medi-Cal recipients and be funded by the department on a prepayment capitation basis in accordance with capitation rates at or less than those paid by the department to prepaid health plans under this chapter for the same or similar care.

(4) The programs shall provide the full range of Medi-Cal services required of prepaid health plans and shall meet all statutory requirements and all regulatory and contractual requirements established by the department for the program.

(5) The programs shall emphasize the innovative use of health personnel including midlevel medical, nursing and dental professionals in ambulatory settings.

(6) Medi-Cal recipients enrolling in a pilot program pursuant to this subdivision shall be offered a choice of qualified primary care physicians employed by the program to be the recipients' designated primary care physicians.

(d) The director shall also consider programs which demonstrate an innovative and economical use of health personnel, including, but not limited to, programs approved pursuant to Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, which emphasize preventive care, which stress new methods for controlling utilization of services or review of provider competency, or which provide an incentive to beneficiaries to seek the most economical level of care. Such programs may provide benefits on the basis of class of recipient, class of benefit, geographical area, or any other reasonable classification, and may provide, to the extent permitted by federal law, benefits or services not included in Section 14132. The director may provide that the extent of benefit coverage may be limited to a fixed number of days, or amount, or duration of services.

(e) Except as provided in subdivisions (b) and (c), payment may be made to a pilot program on a capitated or prepayment basis, on a fee-for-service basis, or on some combination of both systems. For the purposes of this subdivision, "capitated" or "prepayment" means a prospective per capita rate of payment determined in accordance with Section 14301, and the term "Medi-Cal beneficiaries enrolled in a prepaid health plan" in Section 14301 includes all Medi-Cal beneficiaries subject to the terms of a pilot program contract under which individual enrollment is not required.

(f) The director shall call a public hearing pursuant to Section 14300 prior to entering into or renewing a pilot program. The director shall make available to the Health Care Commission a statement of objectives, program proposal, pilot program contract, and other details regarding the pilot program 60 days prior to the public hearing.

(g) The director shall submit to the Legislature a written report detailing the objectives of all pilot programs, the department's analysis of their effectiveness, efficiency, and quality, and other information regarding such pilot programs not later than January 30 of each year. At the conclusion of a pilot program the director shall report to the Legislature concerning the desirability and feasibility of implementing the pilot program on a statewide basis.

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 to provide Medi-Cal beneficiaries at the earliest opportunity with health care services through innovative programs which emphasize preventive care, review of provider competency, and provision of the most appropriate level of care, and in order to insure the viability of programs necessary for the innovative provision of care for senior citizens it is necessary that this act take immediate effect.

CHAPTER 1352

An act to add Chapter 6 (commencing with Section 51030) to Part 1 of Division 1 of Title 5 of the Government Code, relating to the licensing of massage establishments.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976]

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

SECTION 1. Chapter 6 (commencing with Section 51030) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6. MASSAGE

51030. The legislative body of a city for incorporated areas or county for unincorporated areas may enact an ordinance which provides for the licensing for regulation of the business of massage when carried on within the city or county.

51031. The ordinance may condition the issuance of a license to engage in the business of massage upon proof that a massage business meets the reasonable standards set by the ordinance, which may include, but need not be limited to, the following areas:

(a) Age of massage personnel.

(b) Education and experience of massage personnel.

(c) Passage by massage personnel of a practical examination of competence.

(d) Sanitary conditions of the massage establishment.

(e) Hours of operation of the massage business.

(f) Prohibition of the sale or serving of food or beverage or the conducting of nonmassage business on the premises of the massage business. In the event that the business premises in which such massage business is conducted possesses or is qualified to possess a certificate of occupancy issued by such city or county, the prohibition of this subdivision shall apply only to the portion of the premises exclusively devoted to the conduct of the massage business.

51032. The ordinance may also provide that a license to engage in the business of massage may be denied upon a showing by the licensing authority of any of the following:

(a) Proof that the massage personnel and the owners or operators of a massage business have been convicted of a violation of Section 266i, 315, 316, 318, or subdivision (b) of Section 647 of the Penal Code or proof that the massage personnel or the owners or operators of a massage business are required to register under the provisions of Section 290 of the Penal Code.

(b) Proof that the massage personnel and the owners or operators of a massage business have been convicted of any felony offense

involving the sale of a controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code.

51033. This chapter does not apply to cosmetologists, barbers, or to persons licensed to practice any healing art under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code when engaging in such practice within the scope of his or her license.

51034. The Legislature in enacting this chapter recognizes the existing power of a city or county to regulate a lawful massage business pursuant to Section 37101, or pursuant to Section 16000 or 16100 of the Business and Professions Code, or under Section 7 of Article XI of the California Constitution. Nothing contained in this chapter shall be a limitation on that existing power or on the existing authority of a city to license for revenue purposes, nor shall anything contained in this chapter authorize a city, county, or city and county to prohibit a person of one sex from engaging in the massage of a person of the other sex.

CHAPTER 1353

An act to amend Section 69898 of the Government Code, relating to courts.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 69898 of the Government Code is amended to read:

69898. (a) Any superior court of three or more judges may appoint an executive officer who shall hold office at the pleasure of the court and shall exercise such administrative powers and perform such other duties as may be required of him by the court. The court shall fix the qualifications of the executive officer and may delegate to him any administrative powers and duties required to be exercised by the court. He shall supervise the secretaries of the judges of the court and perform, or supervise the performance of, the duties of jury commissioner. The salary of the executive officer shall be fixed by the court and shall be paid by the county in which he serves. Each such position shall be exempt from civil service laws.

(b) Any superior court for which a specific authorization to have an executive or administrative officer has been enacted by the Legislature may elect to proceed under its specific authorization or under this section, but not under both.

(c) In every superior court having an executive or administrative officer appointed under the provisions of this section or under a specific statutory authorization, that officer has the authority of a

clerk of the superior court.

(d) Notwithstanding any other provision of law, a superior court having an executive or administrative officer may, by local rule, specify which of the powers, duties and responsibilities required or permitted to be exercised or performed by the county clerk in connection with judicial actions, proceedings and records shall be exercised or performed by the executive or administrative officer. The county clerk shall be relieved of any obligation imposed on him by law with respect to these specified powers, duties and responsibilities, to the extent the local rule imposes on the executive or administrative officer the same powers, duties and responsibilities.

CHAPTER 1354

An act to amend Sections 143.2, 186, 253.1, 253.2, 253.4, 253.5, 253.6, 263.1, 263.5, 263.7, 311, 312, 333, 360, 374, 375, 378, 381, 384, 388, 411, 417, 422, 440, 441, 460, 506, 559, 563, 582, and 620 of, to add Section 623 to, and to repeal Section 321 of, the Streets and Highways Code, relating to state highways.

[Approved by Governor September 20, 1976. Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 143.2 of the Streets and Highways Code is amended to read:

143.2. In each report required by Section 143.1, the commission shall prepare for inclusion, and the department shall also include, in such report a statement of actual State Highway Account in the State Transportation Fund revenues and revenues available from any other source and estimated regular federal aid for highway purposes received during the current and next preceding fiscal years, together with a statement of all expenditures made and obligations incurred during the current and next preceding fiscal years for the construction, improvement, and maintenance of state highways or portions thereof under the jurisdiction of the department under the following headings and subheadings:

(a) Administration, including payments for services of the legal division.

(1) General or central office administration.

(2) District office administration.

(3) Departmental administration.

These subheadings will include administrative expenditures for bridges, testing, and the like.

(b) Maintenance, including: (1) all maintenance expenditures for each highway route; and (2) a breakdown of total maintenance expenditures by descriptive categories such as general maintenance,

snow removal, bridge repairs, and other categories used by the department to describe a particular class of maintenance work.

(c) Major Construction and Improvement. Under this will be shown all expenditures and obligations incurred in each county group for major construction and improvement, segregating the major bridges, the route of each highway constructed or improved, the county in which located, the number of miles involved, and a description of the type of work done.

(d) Minor Improvement and Betterment. This heading will show the amount expended for minor improvement and betterment in each county group.

(e) Rights-of-Way. This will show the amount of money expended for the purchase of rights-of-way in each county group.

There shall also be included in such report a statement of the reasons for any differences between actual revenues received and estimated revenues, as well as for any differences between actual expenditures and obligations incurred and those proposed to be made, in the two next preceding reports together with a statement of the reasons why any expenditures proposed to be made or obligations to be incurred in the two next preceding reports, and not made, have not been made or incurred.

In addition to making such report to the Governor, the department shall publish or cause to be published a sufficient number of copies thereof for the use of the Legislature.

For the purposes of this section, the date of the award of a contract and of the commencement of a day labor project shall be deemed the time when the entire obligation thereunder is incurred.

SEC. 1.5. Section 186 of the Streets and Highways Code is amended to read:

186. For general administration (but excluding research) and for maintenance, the department and the commission shall be limited in expenditures, out of the money available each year in the State Highway Account in the State Transportation Fund, to an amount not exceeding the net revenue derived from one and one-eighth cents ($0.01125) per gallon tax on motor vehicle fuel under Part 2 (commencing with Section 7301), and on the use of fuel under Part 3 (commencing with Section 8601), of Division 2 of the Revenue and Taxation Code, except that during the 1976–77 fiscal year the limit on such expenditures shall not exceed the revenues derived from one and five-eighths cents ($0.01625) per gallon of such tax. Of that amount, the department shall expend such proportion as the commission determines is necessary for each of the following:

(a) General administration purposes.

(b) Maintenance of all state highways, including all traversable highways between the termini of and approximately on authorized state highway routes.

(c) Maintenance of highways in state parks.

SEC. 2. Section 253.1 of the Streets and Highways Code is amended to read:

253.1. The California freeway and expressway system shall include:

Routes 5, 6, 7, 8, 10, 13, 14, 15, 18, 24, 28, 30, 32, 34, 37, 40, 44, 47, 48, 50, 52, 53, 54, 55, 56, 57, 59, 60, 61, 63, 65, 67, 68, 70, 71, 73, 74, 78, 80, 81, 83, 85, 87, 88, 89, 90, 92, 93, 97, 100, 102, 107, 108, 118, 121, 122, 124, 125, 126, 133, 134, 136, 139, 140, 141, 143, 145, 148, 149, 154, 156, 157, 161, 163, 164, 171, 179, 181, 183, 184, 194, 199, 205, 208, 210, 217, 221, 223, 230, 232, 234, 235, 237, 238, 239, 242, 244, 247, 249, 251, 252, 256, 257, 258, 259, 280, 330, 371, 380, 405, 505, 580, 605, 680, 780, 805, and 880 in their entirety.

SEC. 3. Section 253.2 of the Streets and Highways Code is amended to read:

253.2. The California freeway and expressway system shall also include:

Route 1 from:

(a) Route 105 to the south boundary of the Los Angeles International Airport.

(b) Los Angeles-Ventura county line to Route 101 near El Rio.

(c) Route 101 near Las Cruces to Route 227 south of Oceano.

(d) Route 101 near San Luis Obispo to San Simeon.

(e) Carmel to the west city limits of Santa Cruz.

(f) The Higgins-Purisima Road to Route 280 south of San Francisco.

(g) Route 280 to the San Francisco county line.

(h) Route 101 near the southerly end of Marin Peninsula to the vicinity of Valley Ford.

(i) Route 128 near the mouth of the Navarro River to Route 208 near Rockport.

Route 2 from:

(a) Route 405 near Santa Monica to Route 210.

(b) Harter Lane near Gould Canyon north of La Canada to Route 138.

Route 3 from Route 299 near Weaverville to Route 5 near Yreka.

Route 4 from:

(a) Route 80 near Hercules to Route 99 near Stockton.

(b) Route 99 near Stockton to Route 65.

Route 11 from San Pedro to Colorado Boulevard in Pasadena.

Route 12 from:

(a) Route 1 near Valley Ford to Route 101 at Santa Rosa.

(b) Route 101 near Santa Rosa to Melita Road near Santa Rosa.

(c) Route 29 in the vicinity of Napa to Route 80 near Cordelia.

(d) Route 80 near Fairfield to Route 99 near Lodi via Rio Vista.

(e) Route 99 near Lodi to Route 88 near Lockeford.

(f) Route 88 near Clements to Route 49 near San Andreas.

Route 16 from:

(a) Route 505 to Route 5 near Woodland.

(b) Route 50 near Perkins to Route 49 near Drytown.

Route 17 from:

(a) Route 1 near Santa Cruz to Granite Creek Road near Scott's Valley.

(b) The south city limits of Los Gatos to Route 80 in Oakland.

(c) Route 80 near Albany to Route 101 near San Rafael via the Richmond-San Rafael Bridge.

(d) Route 101 near San Rafael to Route 1 near Point Reyes Station.

Route 20 from Route 101 to Route 80 near Emigrant Gap.

SEC. 4. Section 253.4 of the Streets and Highways Code is amended to read:

253.4. The California freeway and expressway system shall also include:

Route 46 from Route 101 in San Luis Obispo County to Route 99 near Famoso.

Route 49 from:

(a) Route 41 near Oakhurst to Route 140 near Mariposa.

(b) Route 108 south of Jamestown to Route 108 near Sonora.

(c) Route 88 near Jackson to Route 50 near Placerville.

(d) Route 80 near Auburn to Route 20 near Grass Valley.

(e) Route 20 at Nevada City to Route 89 near Sattley.

(f) Route 89 near Sierraville to Route 70 near Vinton.

Route 58 from:

(a) Route 5 to Route 43.

(b) Route 43 to Route 99.

(c) Route 99 near Bakersfield to Route 15 near Barstow.

Route 62 from Route 10 near Whitewater to Route 247 near Yucca Valley.

Route 64 from Route 101 near Hidden Hills to Route 5.

Route 76 from Route 5 near Oceanside to Route 15.

Route 77 from Route 93 westerly of Moraga to Route 24 near Lafayette.

SEC. 5. Section 253.5 of the Streets and Highways Code is amended to read:

253.5. The California freeway and expressway system shall also include:

Route 79 from:

(a) Route 8 near Descanso to Route 78.

(b) Route 371 near Aguanga to Route 15 near Temecula.

(c) Route 15 near Temecula to Route 10 near Beaumont.

Route 84 from:

(a) The westerly approach to the Dumbarton Bridge to Route 238.

(b) Route 680 near Scotts Corners to Route 580.

(c) Route 580 to Route 4 near Brentwood.

(d) Route 4 near Antioch to Route 12 near Rio Vista.

(e) Route 12 at Rio Vista to Route 80 near Broderick.

Route 86 from Route 78 near Brawley to Route 10 near Indio.

Route 91 from Route 405 to Route 194 near Riverside.

Route 94 from Route 5 near San Diego to Route 54 near Jamacha Road.

Route 95 from Route 10 near Blythe to Route 40 near Needles.

Route 99 from:

(a) Route 5 south of Bakersfield to Route 80 in Sacramento.
(b) Route 5 in Sacramento to Route 20.
(c) Route 20 to Route 5 near Red Bluff.
Route 101 from:
(a) Route 5 near Seventh Street in Los Angeles to near Fell Street in San Francisco.
(b) A point in Marin County opposite San Francisco to the Oregon state line north of Crescent City.
Route 105 from Route 405 to Route 605.
SEC. 6. Section 253.6 of the Streets and Highways Code is amended to read:
253.6. The California freeway and expressway system shall also include:
Route 111 from:
(a) The international boundary south of Calexico to Route 78 near Brawley passing east of Heber.
(b) Route 78 near Brawley to Route 86 near Mecca via the north shore of the Salton Sea.
(c) San Rafael Drive in Palm Springs to Route 10 near Whitewater.
Route 113 from Route 80 near Davis to Route 99 near Tudor.
Route 116 from:
(a) Route 181 near Forestville to Route 101 near Cotati.
(b) Route 101 near Petaluma to Route 121 near Schellville.
Route 117 from Route 5 near the south end of San Diego Bay to Route 125 near Brown Field.
Route 120 from:
(a) Route 5 near Mossdale to the west boundary of Yosemite National Park.
(b) The east boundary of Yosemite National Park to Route 395 near Mono Lake.
Route 127 from Route 15 near Baker to Route 190 near Death Valley Junction.
Route 128 from:
(a) The mouth of the Navarro River to Route 101 near Cloverdale.
(b) Route 101 to Route 29 near Calistoga.
(c) Route 121 to Route 113 near Davis.
Route 132 from:
(a) Route 580 west of Vernalis to Route 99 at Modesto.
(b) Route 99 to Route 65.
SEC. 7. Section 263.1 of the Streets and Highways Code is amended to read:
263.1. The state scenic highway system shall include:
Routes 25, 28, 35, 38, 52, 53, 62, 74, 75, 76, 89, 96, 97, 127, 150, 151, 154, 156, 158, 161, 173, 197, 199, 203, 208, 209, 221, 236, 239, 243, 247, 254, 330, 480, and 580 in their entirety.
SEC. 8. Section 263.5 of the Streets and Highways Code is amended to read:
263.5. The state scenic highway system shall also include:

Route 78 from Route 79 near Santa Ysabel to Route 86 passing near Julian.

Route 79 from:

(a) Route 8 near Descanso to Route 78 near Julian.

(b) Route 78 near Santa Ysabel to Route 371 near Aguanga.

Route 80 from:

(a) Route 280 near First Street in San Francisco to Route 61 in Oakland.

(b) Route 20 near Emigrant Gap to the Nevada state line near Verdi, Nevada.

Route 84 from Route 4 near Antioch to Route 160 near Rio Vista.

Route 88 from:

(a) Route 49 near Jackson to Route 89 near Picketts.

(b) Route 89 near Woodfords to the Nevada state line.

Route 91 from Route 55 near Santa Ana Canyon to Route 15 near Corona.

Route 92 from Route 1 near Half Moon Bay to Route 280 near Crystal Springs Lake.

Route 94 from Route 125 near Spring Valley to Route 8 west of Jacumba.

SEC. 9. Section 263.7 of the Streets and Highways Code is amended to read:

263.7. The state scenic highway system shall also include:

Route 138 from:

(a) Route 2 near Wrightwood to Route 15 near Cajon Pass.

(b) Route 15 near Cajon Pass to Route 18 near Mt. Anderson.

Route 139 from Route 299 near Canby to the Oregon state line near Hatfield.

Route 140 from Route 49 near Mariposa to Yosemite National Park near El Portal.

Route 146 from Pinnacles National Monument to Route 25 in Bear Valley.

Route 152 from Route 1 to the Santa Clara county line at Hecker Pass and from Route 156 near San Felipe to Route 5.

Route 160 from Route 12 near Rio Vista to Sacramento.

Route 163 from Ash Street in San Diego to Route 8.

Route 166 from Route 101 near Santa Maria to Route 33 in Cuyama Valley.

Route 168 from:

(a) Route 65 near Clovis to Huntington Lake.

(b) Camp Sabrina to Route 395.

(c) Big Pine to the Nevada state line via Oasis.

Route 178 from the east boundary of Death Valley National Monument to Route 127 near Shoshone.

Route 180 from:

(a) Route 156 near Hollister to Route 25 near Paicines.

(b) Route 65 near Minkler to General Grant Grove section of Kings Canyon National Park.

(c) General Grant Grove section of Kings Canyon National Park

to Kings River Canyon.

Route 190 from Route 65 near Porterville to Route 127 near Death Valley Junction.

SEC. 10. Section 311 of the Streets and Highways Code is amended to read:

311. Route 11 is from San Pedro to Colorado Boulevard in Pasadena.

SEC. 11. Section 312 of the Streets and Highways Code is amended to read:

312. Route 12 is from:

(a) Route 1 near Valley Ford to Route 121 near Sonoma via Santa Rosa.

(b) Route 29 in the vicinity of Napa to Route 80 near Cordelia.

(c) Route 80 near Fairfield to Route 99 near Lodi via Rio Vista.

(d) Route 99 near Lodi to Route 88 near Lockeford.

(e) Route 88 near Clements to Route 49 near San Andreas.

SEC. 12. Section 321 of the Streets and Highways Code is repealed.

SEC. 13. Section 333 of the Streets and Highways Code is amended to read:

333. Route 33 is from:

(a) Route 101 near Ventura to Route 150.

(b) Route 150 to Route 5 near Oilfields via the vicinity of Cuyama Valley and Maricopa and via Coalinga.

(c) Route 5 to Route 152 via the vicinity of Mendota.

(d) Route 152 west of Los Banos to Route 5 near Santa Nella.

(e) Route 5 near Santa Nella to Route 140.

(f) Route 140 to Route 5 near Vernalis.

SEC. 14. Section 360 of the Streets and Highways Code is amended to read:

360. Route 60 is from:

(a) Route 10 near the Los Angeles River in Los Angeles to Route 194 via Pomona and Riverside.

(b) Route 194 to Route 10 near Beaumont.

SEC. 15. Section 374 of the Streets and Highways Code is amended to read:

374. Route 74 is from:

(a) Route 5 near San Juan Capistrano to Route 15.

(b) Route 15 to Route 194 near Perris.

(c) Route 194 near Perris to Route 10 near Indio.

SEC. 16. Section 375 of the Streets and Highways Code is amended to read:

375. Route 75 is from Route 5 to Route 5 via the Silver Strand and the San Diego-Coronado Toll Bridge.

SEC. 17. Section 378 of the Streets and Highways Code is amended to read:

378. Route 78 is from:

(a) Route 5 near Oceanside to Route 15 near Escondido.

(b) Route 15 near Escondido to Route 86 passing near Ramona,

Santa Ysabel, and Julian.

(c) Route 86 near Brawley to Route 10 near Blythe.

The portion of the route described in subdivision (c) between the easterly junction of Route 115 and the Imperial-Riverside county line shall be known and designated as the "Ben Hulse Highway."

SEC. 18. Section 381 of the Streets and Highways Code is amended to read:

381. Route 81 is from Route 194 east of Riverside to Route 15 south of Devore.

SEC. 19. Section 384 of the Streets and Highways Code is amended to read:

384. Route 84 is from:

(a) Route 1 to Route 35.

(b) Route 35 to Route 238.

(c) Route 238 to Route 680 near Scotts Corners via the vicinity of Sunol.

(d) Route 680 near Scotts Corners to Route 580.

(e) Route 580 to Route 4 near Brentwood.

(f) Route 4 near Antioch to Route 12 near Rio Vista.

(g) Route 12 at Rio Vista to Route 880 near Bryte via Ryer Island.

SEC. 20. Section 388 of the Streets and Highways Code is amended to read:

388. Route 88 is from:

(a) Route 99 near Stockton to Route 49 passing south of Ione.

(b) Route 49 in Jackson to Route 89 in Hope Valley via Pine Grove, Silver Lake, and Kirkwood.

(c) Route 89 near Woodfords to the Nevada state line.

SEC. 21. Section 411 of the Streets and Highways Code is amended to read:

411. Route 111 is from:

(a) The international boundary south of Calexico to Route 78 near Brawley passing east of Heber.

(b) Route 78 near Brawley to Route 86 near Mecca via the north shore of the Salton Sea.

(c) Route 10 near Indio to Route 10 near Whitewater passing near Palm Desert.

SEC. 22. Section 417 of the Streets and Highways Code is amended to read:

417. Route 117 is from:

(a) The international boundary near Border Field northeasterly to Route 5.

(b) Route 5 near the south end of San Diego Bay to Route 125 near Brown Field.

SEC. 23. Section 422 of the Streets and Highways Code is amended to read:

422. Route 122 is from:

(a) Route 14 south of Palmdale to Route 138.

(b) Route 138 to Route 48.

(c) Route 48 northeasterly to Route 58.

SEC. 24. Section 440 of the Streets and Highways Code is amended to read:

440. Route 140 is from:

(a) Route 5 near Gustine to Route 99 near Merced.

(b) Route 99 near Merced to Yosemite National Park near El Portal via Mariposa.

SEC. 25. Section 441 of the Streets and Highways Code is amended to read:

441. Route 141 is the westerly extension of Route 780 from Route 80 to Route 37.

SEC. 26. Section 460 of the Streets and Highways Code is amended to read:

460. Route 160 is from Route 12 near Rio Vista to Route 80 via Sacramento.

SEC. 27. Section 506 of the Streets and Highways Code is amended to read:

506. Route 206 is from Route 30 in San Bernardino via Little Mountain to Route 194 near Verdemont.

SEC. 28. Section 559 of the Streets and Highways Code is amended to read:

559. Route 259 is from Route 194 to Route 30 in San Bernardino.

SEC. 29. Section 563 of the Streets and Highways Code is amended to read:

563. Route 263 is from Route 3 near the north city limits of Yreka northeasterly to Route 96 near the confluence of the Shasta and Klamath Rivers.

SEC. 30. Section 582 of the Streets and Highways Code is amended to read:

582. Route 282 is from Route 75 to the Naval Air Station at North Island in Coronado.

SEC. 31. Section 620 of the Streets and Highways Code is amended to read:

620. Route 680 is from:

(a) Route 101 near San Jose to Route 780 at Benicia passing near Warm Springs, Mission San Jose, Scotts Corners, and Sunol, and via Walnut Creek.

(b) Route 780 at Benicia to Route 80 near Cordelia.

SEC. 32. Section 623 is added to the Streets and Highways Code, to read:

623. Route 780 is from Route 680 at Benicia to Route 80 in Vallejo.

CHAPTER 1355

An act to amend Section 68541 of the Government Code, relating to judges, and making an appropriation therefor.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 68541 of the Government Code is amended to read:

68541. (a) The extra compensation of a judge of a justice court sitting in another justice court or a municipal court under assignment made by the Chairman of the Judicial Council shall be paid by the county which by law is charged with the payment of the compensation of the judge of the court to which the assignment is made.

(b) If the justice court judge is assigned to a municipal court in another county, the county to which such judge is assigned shall reimburse the county in which such judge was selected as a justice court judge in an amount equal to that portion of the regular salary of such judge paid for the time he was serving in the other court. This reimbursement shall be made from the same funds from which the extra compensation is paid.

(c) If a justice court judge is assigned to another justice court, except for exchange assignments as defined by rules adopted by the Judicial Council, the salary of the office to which he is assigned shall, for purposes of Section 68540.7, be deemed to be equivalent to the salary paid a justice court judge certified pursuant to Section 71702 of the Government Code.

(d) If the justice court judge is assigned to a justice court in another county, the county to which the judge is assigned shall reimburse the county in which such judge was selected as a justice court judge in an amount equal to the regular salary of the assigned judge. This reimbursement shall be made from the same funds from which the extra compensation is paid.

SEC. 2. The sum of twenty-seven thousand five hundred dollars ($27,500) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies or school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.

SEC. 3. There is hereby appropriated from the General Fund the sum of eighty-two thousand five hundred dollars ($82,500) to the Judicial Council in augmentation of Item 16 of the Budget Act of 1976 for the purposes of this act and continuing implementation of Chapter 1493 of the Statutes of 1974.

CHAPTER 1356

An act to add Section 26840.3 to the Government Code, relating to marriage.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 26840.3 is added to the Government Code, to read:

26840.3. The superior court of any county which maintains a conciliation court may, upon action by the board of supervisors to provide from other sources a substantially equal amount, increase the following fees by the following amounts:

(a) The fee for the filing of a petition for dissolution of a marriage, a petition for legal separation, or a petition for nullity of a marriage, by not to exceed five dollars ($5).

(b) The fee for issuing a marriage license, by not to exceed two dollars ($2).

(c) The fee for filing a marriage certificate pursuant to Section 4213 of the Civil Code, by not to exceed two dollars ($2).

The funds shall be paid to the county treasury and shall be used exclusively to pay the costs of maintaining the conciliation court.

CHAPTER 1357

An act to amend Section 27706 of the Government Code, and to amend Sections 1404, 1405, 1435.2, 1460, 1461, 1461.3, 1461.5, 1462, 1470, 1471, 1472, 1500, 1510, 1553, 1554, 1570, 1580, 1631, 1645, 1751, 1754, 1801, 1851, 1853, 1951, and 2206 of, and to add Sections 1461.1, 1500.1, 1500.2, 1606, 1754.1, 1851.1, 1851.2, and 2006 to, the Probate Code, relating to civil law.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. 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 Divisions 4 (commencing with Section 1400) and 5 (commencing with Section 1701) of the Probate Code and 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.

SEC. 2. Section 1404 of the Probate Code is amended to read:

1404. Either parent of an unmarried incompetent person may appoint a guardian of the person and estate, or person or estate, of such person, by will or by deed, to take effect upon the death of the parent appointing, with the written consent of the other parent, or if the other parent is dead or incapable of consent. If the incompetent person is married, such appointment may be made by the spouse.

SEC. 3. Section 1405 of the Probate Code is amended to read:

1405. The superior court shall appoint a general guardian of the person and estate, or person or estate, of minors and incompetent persons, whenever necessary or convenient, and when no guardian has been appointed for the purpose by will or by deed. The court, in its discretion, may appoint more than one guardian and shall

01417 2810585 130

require either a separate bond from each or a joint and several bond. Where two or more guardians are appointed as coguardians, each shall be governed and liable in all respects as a sole guardian. If the estate does not exceed ten thousand dollars ($10,000), the court may require that the money in the estate be deposited in a bank or trust company or be invested in an account in an insured savings and loan association subject to withdrawal only upon the order of the court in which case no bond be required of the guardian. The court shall also confirm an appointment made by will or by deed, whenever requested, upon the same procedure and notice as in the case of appointment by the court.

SEC. 4. Section 1435.2 of the Probate Code is amended to read:

1435.2. As used in this chapter the word incompetent shall mean a legal, not a medical disability and shall be measured by functional inabilities. It shall be construed to mean or refer to any adult person who, in the case of a guardianship of the person, is unable properly to provide for his own personal needs for physical health, food, clothing or shelter, and, in the case of a guardianship of the estate, is substantially unable to manage his own financial resources. "Substantial inability" shall not be evidenced solely by isolated instances of negligence or improvidence.

SEC. 5. Section 1460 of the Probate Code is amended to read:

1460. Any superior court to which application is made as hereinafter provided may appoint a guardian for the person and estate or person or estate of an incompetent person, who is a resident of this state. As used in this division and Division 5 of this code, the phrase "incompetent person," "incompetent," or "conservatee" shall mean a legal, not a medical disability and shall be measured by functional inabilities. It shall be construed to mean or refer to any adult person who, in the case of a guardianship of the person, is unable properly to provide for his own personal needs for physical health, food, clothing or shelter, and, in the case of a guardianship of the estate, is substantially unable to manage his own financial resources. "Substantial inability" shall not be evidenced solely by isolated incidents of negligence or improvidence.

SEC. 6. Section 1461 of the Probate Code is amended to read:

1461. Any relative or friend may file a verified petition alleging that a person is incompetent, and setting forth the names and residences, so far as they are known to the petitioner, of the relatives of the alleged incompetent person within the second degree residing within or without the state. The clerk shall set the petition for hearing by the court and issue a citation directed to the alleged incompetent person setting forth the time and place of hearing so fixed by him.

The citation shall include a specific delineation of the legal standards by which the need for a guardianship is adjudged as stated in Section 1460, and shall state that the alleged incompetent person may be adjudged incompetent and by reason thereof a guardian may be appointed for his person and estate or person or estate, that such

adjudication may transfer his right to contract, manage and control his property, and to fix his residence to the appointed guardian, that the court or a court investigator will explain the nature, purpose and effect of the proceeding to the alleged incompetent person and answer questions concerning such explanation, that the alleged incompetent person shall have the right to appear at such hearing and oppose such petition, that he shall have the right to legal counsel of his own choosing, including the right to have legal counsel appointed for him by the court if he is unable to retain one, and that he has the right to a jury trial if he so desires.

The citation, and a copy of the petition, shall be served upon the alleged incompetent person in the same manner provided for in Section 415.10 or 415.30 of the Code of Civil Procedure or in such manner as may be authorized by the court, at least 10 days before the time of the hearing.

Notice of the nature of the proceedings and of the time and place of the hearing shall be mailed by the petitioner to each of the relatives of the alleged incompetent person named in the petition at least 15 days before the time of hearing unless the time is shortened by the court for good cause shown. The court may order that similar notice be given to other persons in such manner as the court may direct. Any relative or friend of the alleged incompetent person or the alleged incompetent person himself may appear and oppose the petition.

If the alleged incompetent person is within the state and is able to attend, he shall be produced at the hearing, and if he is not able to attend by reason of medical inability, such inability shall be evidenced by the affidavit or certificate of a duly licensed medical practitioner, unless such alleged incompetent person is a patient at a county or state hospital in this state in which case the affidavit or certificate shall be by the medical director or medical superintendent or acting medical director or medical superintendent of such county or state hospital. If the proposed ward is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing and is under treatment by an accredited practitioner of such religion, an affidavit as to his or her medical inability to attend by the accredited practitioner shall be acceptable.

If the alleged incompetent person is not within the state and if the court determines that his attendance at the hearing is necessary in the interest of justice, the court may order him to be produced at the hearing upon penalty of dismissing the petition if he is not produced. If such an order is made and it is contended that the alleged incompetent person is not able to attend by reason of medical inability such inability shall be evidenced by the affidavit or certificate of a duly licensed medical practitioner.

Emotional or psychological instability shall not be considered good cause for the absence of the alleged incompetent person within the meaning of this section, unless, by reason of such instability,

attendance at the hearing is likely to cause serious and immediate physiological damage to the alleged incompetent person. The medical affidavit shall be evidence only of the alleged incompetent person's medical inability to attend the hearing and shall not be considered in determining the issue of incompetency.

SEC. 7. Section 1461.1 is added to the Probate Code, to read:

1461.1. Upon receipt of the affidavit or certificate attesting to the proposed ward's inability to attend the hearing, the court shall appoint a court investigator to personally interview the proposed ward and to inform him as to the contents of the citation, the nature, purpose and effect of the proceeding, and of his right to oppose the proceeding, attend the hearing, have the matter tried by jury and be represented by counsel. The investigator shall also determine whether it appears that the proposed ward is unable to attend the hearing, whether the proposed ward wishes to contest the establishment of the guardianship, whether the proposed ward wishes to be represented by counsel, and if so, whether the proposed ward has retained counsel, and if not, the name of an attorney the proposed ward wishes to retain.

If the proposed ward does not wish to contest the establishment of the guardianship, the investigator shall determine if the proposed ward objects to the proposed guardian, or if he prefers another person to act as guardian.

The court investigator shall report his findings, including the proposed ward's express statement concerning representation by counsel, in writing, to the court at least five days before the date set for hearing.

As used in this chapter, a "court investigator" or "investigator" is a person trained in law who is an officer or special appointee of the court with no personal or other beneficial interest in the proceedings.

SEC. 8. Section 1461.3 of the Probate Code is amended to read:

1461.3. If the alleged incompetent person is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Health and such fact is known to the petitioner, the petitioner shall name the institution in the petition, and shall give notice of the filing of the petition for appointment of a guardian and of the time and place of the hearing by mailing such notice and a copy of the petition to the Director of the State Department of Health at his office in Sacramento at least 15 days before the hearing unless the time is shortened by the court for good cause shown.

SEC. 9. Section 1461.5 of the Probate Code is amended to read:

1461.5. Prior to the appointment of a guardian for the person and estate or person or estate of an incompetent person, the court shall inform the alleged incompetent person as to the nature and purpose of the guardianship proceeding, that the appointment of a guardian for his person and estate or person or estate is a legal adjudication of his incompetence, the effect of such an adjudication on his basic rights the identity of the person who has been nominated as his

guardian, that he has a right to oppose such proceeding, to have the matter tried by jury, and to be represented by legal counsel if he chooses. After communicating such information to the person and prior to the appointment of his guardian, the court shall consult the person to determine his opinion concerning the appointment. Any adult developmentally disabled person for whom guardianship or conservatorship is sought pursuant to this article shall be informed of his right to counsel by the court; and if he does not have an attorney for the proceedings the court shall immediately appoint the public defender or other attorney to represent him. The person shall pay the cost for such legal service if he is able.

If the alleged incompetent person is unable to attend the hearing and such inability has been medically certified pursuant to Section 1461, the provisions of this section shall not apply.

SEC. 10. Section 1462 of the Probate Code is amended to read:

1462. If, upon the hearing, it appears to the court that the person in question is insane or incompetent, the court must appoint a guardian of his person and estate, or person or estate. In awarding letters of guardianship, the court shall give preference to such person as may have been designated by will or deed, unless good cause to the contrary is shown.

Before letters of guardianship may issue, a copy of the order appointing the guardian shall be served by mail upon the ward. The order shall contain the names, addresses, and telephone numbers of the guardian, the ward's attorney, if any, and the court investigator, if any.

The selection of a guardian of the person and estate or person or estate shall be solely in the discretion of the court. Among persons equally qualified in the opinion of the court to be appointed as guardian, preference is to be given as follows:

(1) To the ward's nominee under Section 1463.

(2) To the spouse of a married ward or the nominee of such spouse, unless an action for dissolution of marriage is pending;

(3) To an adult child of the ward or the nominee of such child;

(4) To a parent of the ward or the nominee of such parent;

(5) To a brother or sister of the ward or the nominee of such brother or sister;

(6) To any qualified person or corporation upon the appropriate petition to the court, or if there is no such person or corporation qualified and willing to act in such capacity, to the public guardian under Section 8006 of the Welfare and Institutions Code.

The preference for any nominee to appointment under subdivisions (3), (4), and (5) shall be subordinate to the preference for any other child, parent, brother or sister in such class.

SEC. 11. Section 1470 of the Probate Code is amended to read:

1470. Any person who has been declared incompetent and for whom a guardian has been appointed as an incompetent person, or the guardian, or any relative or friend, may apply, by petition, to the superior court of the county in which such person was declared

incompetent, or from which letters of guardianship were issued, to have the fact of his restoration to capacity judicially determined. The petition must be verified, and must state that such person is then competent.

SEC. 12. Section 1471 of the Probate Code is amended to read:

1471. The clerk shall set the petition for hearing by the court. At the request of the person so declared incompetent the question of his restoration to capacity must be tried by a jury, which must be summoned and impaneled in the same manner as juries in civil actions. At least five days' notice of the trial or hearing must be given to the person so declared incompetent and to the guardian of such person, and to the person's spouse, if any, and to his or her father and mother, if in the state.

SEC. 13. Section 1472 of the Probate Code is amended to read:

1472. On the trial or hearing, the person so declared incompetent and the guardian of such person, or any relative of such person, and, in the discretion of the court, any other person, may contest the right to the relief demanded. Witnesses may be required to appear and testify, as in civil cases, and may be called and examined by the court on its own motion. If it is found that the person in question is competent and capable of managing and taking care of himself and his property, his restoration to capacity must be adjudged and the guardianship of such person, if not a minor, must cease.

SEC. 14. Section 1500 of the Probate Code is amended to read:

1500. Every guardian has the care and custody of the person of his ward and the management of his estate, or the care and custody of the person of his ward or the management of his estate, according to the order of appointment, until legally discharged, or until his ward is restored to capacity pursuant to Chapter 5 (commencing with Section 1470) of this division, whichever shall occur first, or, in case of the guardianship of the person of a minor, until the minor reaches the age of majority or marries, or, as to the guardianship of his estate, until the ward attains his majority as provided in Section 25 of the Civil Code. The guardian of a minor also has charge of the education of the minor. The guardian of the person of a ward may fix the residence of the ward at any place in the state, but not elsewhere without the permission of the court.

No person for whom a guardian of the person has been appointed shall be placed in a mental health treatment facility against his will. Involuntary civil mental health treatment for a ward shall be obtained only pursuant to the provisions of Article 1 (commencing with Section 5150), Article 1.5 (commencing with Section 5170), Article 2 (commencing with Section 5200), Article 3 (commencing with Section 5225), 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), Article 7 (commencing with Section 5325), Article 8 (commencing with Section 5340), and Chapter 3 (commencing with Article 5350) of Division 5 of the Welfare and Institutions Code.

(a) A person who is not a ward shall not be presumed to be incompetent by virtue of his having been a ward under the provisions of this division.

(b) All petitions filed under this chapter shall be set for hearing within 30 days of the filing of such petitions.

(c) The guardian shall promptly advise the court issuing the letters of guardianship in writing of all changes in the residence of the ward.

SEC. 15. Section 1500.1 is added to the Probate Code, to read:

1500.1. Each guardianship initiated pursuant to this chapter shall be reviewed by the court one year after the appointment of the guardian and biennially thereafter. The court investigator shall visit the ward and personally inform the ward that he is under a guardianship and the name of his guardian. The investigator shall also determine whether the ward wishes to petition the court for restoration to capacity, whether the ward is still incompetent, and whether the present guardian is acting in the best interests of the ward.

The findings of the court investigator, including the facts upon which such findings are based, shall be certified in writing to the court within 15 days of the date of review.

If the ward wishes to petition the court for restoration to capacity or for removal of the existing guardian, the court shall notify the attorney of record for the ward, if any, or appoint the public defender or other attorney to file the petition and represent the ward at the hearing or trial.

If, based upon information contained in the court investigator's report, the court determines that a hearing for restoration to capacity or removal of the existing guardian is in the best interests of the ward, the court shall notify the attorney of record for the ward, if any, or appoint the public defender or other attorney to file the petition and represent the ward at the hearing or trial.

If the court investigator is unable to locate the ward, the court shall serve notice upon the guardian to produce the ward within 15 days of the receipt of such notice or show cause why the guardianship should not be terminated. If the ward is not produced within the time prescribed and if no good cause is shown for not producing the ward, the court shall terminate the guardianship and order the guardian to file an accounting, if the guardianship is of the estate.

SEC. 16. Section 1500.2 is added to the Probate Code, to read:

1500.2. For all guardianships established prior to the effective date of the amendments to this division adopted at the 1975–76 Regular Session of the Legislature, review pursuant to the terms of Section 1500.1 shall commence at the time of the next financial accounting, but in all cases within three years from the effective date of such amendments.

SEC. 17. Section 1510 of the Probate Code is amended to read:

1510. If the court approves a compromise of, or the execution of a covenant not to sue on, a minor's disputed claim for damages,

money or other property, or approves a compromise of a pending action or proceeding to which a minor or incompetent person is a party, or gives judgment for such a person, and the money or the value of other property to be paid or delivered under such compromise, covenant, order or judgment does not exceed ten thousand dollars ($10,000), and there is no guardian of the estate of the minor or incompetent person, such court, in its discretion, may require that the remaining balance of any money paid or to be paid under such compromise, covenant, order or judgment, after payment of all expenses, costs and fees as approved and allowed by the court, be deposited in a bank or banks, or a trust company or companies, or be invested in an account or accounts in an insured savings and loan association or associations, or be invested in shares of an insured credit union, subject to withdrawal only upon the order of the court, or it may require a guardian of the estate to be appointed and the money or the other property to be paid or delivered to such guardian, or prescribe such other conditions as the court in its discretion deems to the best interests of the minor or incompetent person; provided, however, that if the money or the value of other property to be paid or delivered under such compromise, covenant, order or judgment does not exceed one thousand dollars ($1,000), and such money or property is to be paid or delivered for the benefit of a minor, the court may direct that all or any part of the money or the property be paid or delivered to a parent of the minor, without bond, upon the terms and under the conditions specified in Section 1430 of the Probate Code. If the money or the value of other property to be paid or delivered under such compromise, covenant, order or judgment exceeds ten thousand dollars ($10,000), and there is no guardian of the estate of the minor or incompetent person, such court shall require a guardian of the estate to be appointed and shall direct that the money or the other property be paid or delivered to the guardian, or in lieu of the appointment of a guardian of the estate, shall require that the remaining balance of any money paid or to be paid under such compromise, covenant, order or judgment, after payment of all expenses, costs and fees as approved and allowed by the court, be deposited in a bank or banks, or a trust company or companies, or be invested in an account or accounts in an insured savings and loan association or associations, or be invested in shares of an insured credit union, subject to withdrawal only upon order of the court, and as to other property to be paid or delivered, the court shall prescribe such conditions as it may deem to the best interests of the minor or incompetent person.

Notwithstanding any other provision of law, upon approval of a compromise of, or the execution of a covenant not to sue on, a minor's disputed claim, or approval of a compromise of a pending action or proceeding to which a minor is a party, or giving judgment for such a person, providing for the payment or delivery of money or other property, in any case to which this section applies, the court

making the order or giving judgment, and as a part thereof, may expressly retain jurisdiction of any part or all of the money paid, delivered, deposited, or invested until the minor reaches the age of 18 years.

Upon approval of a compromise of, or the execution of a covenant not to sue on, a minor's disputed claim, or approval of a compromise of a pending action or proceeding to which a minor or incompetent person is a party, or giving judgment for such a person, providing for the payment or delivery of money or other property, the court making the order or giving judgment, and as a part thereof, shall make a further order authorizing and directing a parent of the minor or guardian of the minor or incompetent person, or the payer of any money to be paid for the benefit of such person, to pay, from the money or other property to be paid or delivered, such reasonable expenses (medical or otherwise and including reimbursement to a parent or guardian), costs and attorney's fees as the court shall approve and allow therein. The remaining balance of such money or other property shall be paid, delivered or deposited as hereinabove provided.

The term "account in an insured savings and loan association" used in this section means shares issued by a federal savings and loan association, or investment certificates issued by a state-chartered building and loan association or savings and loan association doing business in this state which is an "insured institution" as defined in Title IV of the National Housing Act, or shares issued by a state-chartered building and loan association or savings and loan associations doing business in this state which does not issue investment certificates and which is an "insured institution" as defined in Title IV of the National Housing Act.

The term "shares of an insured credit union" means shares issued by a credit union, either federally chartered or state licensed, which are insured under Title II of the Federal Credit Union Act.

Where reference is made in this section to "guardian of the estate" such reference shall be deemed to include "conservator of the estate," and reference to "incompetent person" shall be deemed to include "a person for whom a conservator may be appointed."

SEC. 17.5. Section 1510 of the Probate Code is amended to read:

1510. If the court approves a compromise of, or the execution of a covenant not to sue on, a minor's disputed claim for damages, money or other property, or approves a compromise of a pending action or proceeding to which a minor or incompetent person is a party, or gives judgment for such a person, and the money or the value of other property to be paid or delivered under such compromise, covenant, order or judgment does not exceed ten thousand dollars ($10,000), and there is no guardian of the estate of the minor or incompetent person, such court, in its discretion, may require that the remaining balance of any money paid or to be paid under such compromise, covenant, order or judgment, after payment of all expenses, costs and fees as approved and allowed by

the court, be deposited in a bank or banks, or a trust company or companies, or be invested in an account or accounts in an insured savings and loan association or associations, or be invested in shares of an insured credit union, or in a single-premium deferred annuity issued by an admitted life insurer, subject to withdrawal only upon the order of the court, or it may require a guardian of the estate to be appointed and the money or the other property to be paid or delivered to such guardian, or prescribe such other conditions as the court in its discretion deems to the best interests of the minor or incompetent person; provided, however, that if the money or the value of other property to be paid or delivered under such compromise, covenant, order or judgment does not exceed one thousand dollars ($1,000), and such money or property is to be paid or delivered for the benefit of a minor, the court may direct that all or any part of the money or the property be paid or delivered to a parent of the minor, without bond, upon the terms and under the conditions specified in Section 1430 of the Probate Code. If the money or the value of other property to be paid or delivered under such compromise, covenant, order or judgment exceeds ten thousand dollars ($10,000), and there is no guardian of the estate of the minor or incompetent person, such court shall require a guardian of the estate to be appointed and shall direct that the money or the other property be paid or delivered to the guardian, or in lieu of the appointment of a guardian of the estate, shall require that the remaining balance of any money paid or to be paid under such compromise, covenant, order or judgment, after payment of all expenses, costs and fees as approved and allowed by the court, be deposited in a bank or banks, or a trust company or companies, or be invested in an account or accounts in an insured savings and loan association or associations, or be invested in shares of an insured credit union, or in a single-premium deferred annuity issued by an admitted life insurer subject to withdrawal only upon order of the court, and as to other property to be paid or delivered, the court shall prescribe such conditions as it may deem to the best interests of the minor or incompetent person.

Notwithstanding any other provision of law, upon approval of a compromise of, or the execution of a convenant not to sue on, a minor's disputed claim, or approval of a compromise of a pending action or proceeding to which a minor is a party, or giving judgment for such a person, providing for the payment or delivery of money or other property, in any case to which this section applies, the court making the order or giving judgment, and as a part thereof, may expressly retain jurisdiction of any part or all of the money paid, delivered, deposited, or invested until the minor reaches the age of 18 years.

Upon approval of a compromise of, or the execution of a covenant not to sue on, a minor's disputed claim, or approval of a compromise of a pending action or proceeding to which a minor or incompetent person is a party, or giving judgment for such a person, providing for

the payment or delivery of money or other property, the court making the order or giving judgment, and as a part thereof, shall make a further order authorizing and directing a parent of the minor or guardian of the minor or incompetent person, or the payer of any money to be paid for the benefit of such person, to pay, from the money or other property to be paid or delivered, such reasonable expenses (medical or otherwise and including reimbursement to a parent or guardian), costs and attorney's fees as the court shall approve and allow therein. The remaining balance of such money or other property shall be paid, delivered or deposited as hereinabove provided.

The term "account in an insured savings and loan association" used in this section means shares issued by a federal savings and loan association, or investment certificates issued by a state-chartered building and loan association or savings and loan association doing business in this state which is an "insured institution" as defined in Title IV of the National Housing Act, or shares issued by a state-chartered building and loan association or savings and loan associations doing business in this state which does not issue investment certificates and which is an "insured institution" as defined in Title IV of the National Housing Act.

The term "shares of an insured credit union" means shares issued by a credit union, either federally chartered or state licensed, which are insured under Title II of the Federal Credit Union Act.

The term "single-premium deferred annuity" means an annuity offered by an admitted life insurer for the payment of a one-time lump-sum premium and for which the insurer neither assesses any initial charges or administrative fees against the premium paid nor exacts or assesses any penalty for withdrawal of any funds by the annuitant after a period of five years.

Where reference is made in this section to "guardian of the estate" such reference shall be deemed to include "conservator of the estate," and reference to "incompetent person" shall be deemed to include "a person for whom a conservator may be appointed."

SEC. 18. Section 1553 of the Probate Code is amended to read:

1553. At the expiration of a year from the time of his appointment, and as often thereafter as he may be required by the court, but no less frequently than biennially, the guardian must present his account to the court for settlement and allowance. When an account is rendered by two or more joint guardians, the court, in its discretion, may allow the same upon the oath of any of them.

SEC. 19. Section 1554 of the Probate Code is amended to read:

1554. No account of the guardian of an incompetent person who is or has been during the guardianship confined in a state hospital in this state shall be settled or allowed unless notice of the time and place of hearing and a copy of the account have been given to the Director of Health at his office in Sacramento at least 15 days before the hearing. The statute of limitations shall not run against any claim of the State Department of Health against the estate of the

incompetent for board, care, maintenance or transportation if the account is settled without giving the notice prescribed above.

SEC. 20. Section 1570 of the Probate Code is amended to read:

1570. The superior court may appoint a guardian of the person and estate, or person or estate, of a minor or incompetent person who resides out of the state and who is within the county, or who has estate within the county, and who has no guardian within the state, upon petition of any relative or friend of such person. A minor may, if he is 14 years of age or older, petition to have a guardian appointed for himself.

If the nonresident ward is an incompetent person, the appointment shall be made in compliance with Section 1461 of this code. If the nonresident ward is a minor, the appointment shall be made in compliance with Section 1441 of this code.

The guardianship which is first granted of a nonresident ward extends to all the estate of the ward within this state, and the court of no other county has jurisdiction.

SEC. 21. Section 1580 of the Probate Code is amended to read:

1580. A guardian however appointed may be removed by the court, after notice and hearing, substantially as provided in Section 1755 of this code, for any of the following causes:

(1) For waste or mismanagement of the estate, or abuse of his trust;

(2) For failure to file an inventory or to render an account within the time allowed by law, or for continued failure to perform his duties;

(3) For incapacity to perform his duties suitably;

(4) For gross immorality or conviction of a felony;

(5) For having an interest adverse to the faithful performance of his trust;

(6) In the case of a guardian of an estate, for insolvency or bankruptcy;

(7) When it is no longer necessary that the ward should be under guardianship; or

(8) In any other case in which the court shall in its discretion deem such removal to be in the best interests of the ward provided, in considering the best interests of the ward, if the guardian was appointed by will or deed, the court shall take that fact into consideration.

(9) In the case of a guardian of the person, failure to comply with the provisions of Section 1500.

SEC. 22. Section 1606 is added to the Probate Code, to read:

1606. In any proceeding for the appointment of a guardian for the person and estate or person or estate of an alleged incompetent person or for restoration of his capacity under this division, the alleged or adjudicated incompetent person shall be represented by legal counsel at the hearing, if he so chooses, irrespective of whether he appears to have capacity to make such choice. If he so chooses, but is unable to retain legal counsel, the court shall, at the time of the

hearing, appoint the public defender or other attorney to represent him.

The court shall hear and determine the matter according to the laws and procedure relating to civil actions, including trial by jury if demanded.

In any case in which the alleged or adjudicated incompetent person is furnished legal counsel, either through the public defender or private counsel appointed by the court, upon conclusion of the hearing, the court shall make a determination of the present ability of the alleged or adjudicated incompetent person to pay all or a portion of the costs of such counsel. If the court determines that the alleged or adjudicated incompetent person has the present ability to pay all or a portion of the costs, it shall order him or the guardian of the estate to pay the sum, in the case of the public defender, to the county, and in the case of private counsel, to such counsel, in any installments and manner which is believed reasonable and compatible with his financial ability. If a guardian is not appointed for the alleged incompetent person, execution may be issued on the order in the same manner as on a judgment in a civil action.

SEC. 23. Section 1631 of the Probate Code is amended to read:

1631. An appeal from an order appointing a guardian for an incompetent person shall stay the power of the guardian, except that, for the purpose of preventing injury or loss to person or property, the court making the appointment may direct the exercise of the powers of the guardian, from time to time, as though no appeal were pending, and all acts of the guardian pursuant to such directions shall be valid, irrespective of the result of the appeal.

SEC. 24. Section 1645 of the Probate Code is amended to read:

1645. (a) The appointment and qualification of a general guardian terminates the powers of the special guardian except for the rendering of his account, unless by reason of an appeal therefrom or other cause the court appointing the general guardian otherwise orders. If so ordered, the court shall fix the time for the termination of the powers of the special guardian.

(b) Except as provided in subdivision (a) the powers of the special guardian shall not extend beyond 30 days unless the court, with or without notice as it may require, for good cause shall extend such powers pending the final determination of the court upon the petition for appointment of a guardian.

SEC. 25. Section 1751 of the Probate Code is amended to read:

1751. Upon petition as provided in this chapter, the superior court, if satisfied by sufficient evidence of the need therefor, shall appoint a conservator of the person and property or person or property of any adult person who, in the case of a conservatorship of the person, is unable properly to provide for his personal needs for physical health, food, clothing or shelter, and, in the case of a conservatorship of the property, is substantially unable to manage his own financial resources, or resist fraud or undue influence, or for whom a guardian could be appointed under Division 4 of this code,

or who voluntarily requests the same and to the satisfaction of the court establishes good cause therefor, or who is an absentee as defined in Section 1751.5. "Substantial inability" shall not be evidenced solely by isolated incidents of negligence or improvidence. The court, in its discretion, may appoint one or more conservators.

SEC. 26. Section 1754 of the Probate Code is amended to read:

1754. Any person or any relative or friend of any person, other than a creditor of the proposed conservatee, may file a verified petition alleging that the appointment of a conservator is required. The petition shall set forth, so far as they are known to the petitioner, the names and residences of the spouse, if any, and of the relatives of the proposed conservatee within the second degree. Upon the filing of the petition, the clerk shall set the petition for hearing by the court. Notice of the nature of the proceedings and of the time and place of the hearing on the petition shall be mailed by the petitioner to the spouse, if any, and to each of such relatives, and if the proposed conservatee is an "absentee" as defined in Section 1751.5, to the secretary concerned or to the head of the United States department or agency concerned, as the case may be, at least 15 days before such hearing date. If the proposed conservatee is an "absentee," as defined in Section 1751.5, such notice shall also be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation in the county in which the proceedings will be held.

If the petition is filed by a person other than the proposed conservatee, the clerk shall issue a citation directed to the proposed conservatee setting forth the time and place of the hearing. The citation shall include a specific delineation of the legal standards by which the need for a conservatorship is adjudged as stated in Section 1751, and shall state that the proposed conservator may be adjudged unable to provide for his personal needs or manage his financial resources, and by reason thereof, a conservator may be appointed for his person and property or person or property, that such adjudication may transfer the proposed conservatees' right to contract, manage and control his property, and to fix his residence to the appointed conservator, that the court or a court investigator will explain the nature, purpose and effect of the proceeding to the proposed conservatee and answer questions concerning such explanation, that the proposed conservatee shall have the right to appear at such hearing and oppose such petition, that he shall have the right to legal counsel of his own choosing, including the right to have legal counsel appointed for him by the court if he is unable to retain one, and that he has the right to a jury trial if he so desires.

The citation, and a copy of the petition, shall be served upon the proposed conservatee in the same manner provided for in Section 415.10 or 415.30 of the Code of Civil Procedure or in such manner as may be authorized by the court, at least 10 days before the time of the hearing. No such citation shall, however, be required if the proposed conservatee is an "absentee" as defined in Section 1751.5.

The proposed conservatee, if he is the petitioner, or if he is in the state at date of service and, if able to attend, shall be produced at the hearing, and, if not able to attend by reason of medical inability, such inability shall be established by the affidavit or certificate of a duly licensed medical practitioner. If the proposed conservatee is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing and is under treatment by an accredited practitioner of such religion, an affidavit as to his or her medical inability to attend by an accredited practitioner shall be acceptable. Emotional or psychological instability shall not be considered good cause for the absence of the proposed conservatee within the meaning of this section, unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate physiological damage to the proposed conservatee. The medical affidavit shall be evidence only of the proposed conservatee's medical inability to attend the hearing and shall not be considered in determining the issue of need for appointment of a conservator. If the proposed conservatee is an "absentee" as defined in Section 1751.5 his inability to attend the hearing shall be established by a certificate complying with Section 1283 of the Evidence Code, showing the determination of the Secretary of the Military Department or the head of the department, or agency concerned or his delegate, as the case may be, that the "absentee" is in missing status.

Upon receipt of the affidavit or certificate attesting to the proposed conservatee's inability to attend the hearing, the court shall appoint a court investigator to personally interview the proposed conservatee and to inform him as to the contents of the citation, the nature, purpose and effect of the proceeding, and of his right to oppose the proceeding, attend the hearing, have the matter tried by jury and be represented by counsel. The investigator shall also determine whether it appears that the proposed conservatee is unable to attend the hearing, whether the proposed conservatee wishes to contest the establishment of the conservatorship, whether the proposed conservatee wishes to be represented by counsel, and if so, whether the proposed conservatee has retained counsel, and if not, the name of an attorney the proposed conservatee wishes to retain.

If the proposed conservatee does not wish to contest the establishment of the guardianship, the investigator shall determine if the proposed conservatee objects to the proposed conservator, or if he prefers another person to act as conservator.

The court investigator shall report his findings, including the proposed conservatee's express statement concerning representation by counsel, in writing, to the court at least five days before the date set for hearing.

As used in this chapter, a "court investigator" or "investigator" is a person trained in law who is an officer or special appointee of the court with no personal or other beneficial interest in the proceedings.

Whenever a notice to any officer or agency of this state or of the United States would be required upon a petition for the appointment of a guardian of an alleged incompetent person a like notice shall be given of a petition under this chapter. Any officer or agency of this state or of the United States, or the authorized delegate thereof, or any relative or friend of the proposed conservatee, or the proposed conservatee himself, may appear and oppose the petition.

SEC. 27. Section 1754.1 is added to the Probate Code, to read:

1754.1. If the proposed conservatee is not the petitioner, prior to the appointment of a conservator for the person and estate or person or estate of a proposed conservatee, the court shall inform the proposed conservatee as to the nature and purpose of the proceeding, that the appointment of a conservator for his person and estate or person or estate is a legal adjudication of his inability properly to provide for his personal needs or manage his own financial resources or of his incompetency, the effect of such an adjudication on his basic rights, the identity of the person who has been nominated as his conservator, that he has right to oppose such proceeding, to have the matter tried by jury, and to be represented by legal counsel if he chooses. After communicating such information to the person and prior to the appointment of his conservator, the court shall consult the person to determine his opinion concerning the appointment.

If the proposed conservatee is unable to attend the hearing and such inability has been medically certified pursuant to Section 1754, the provisions of this section shall not apply.

SEC. 28. Section 1801 of the Probate Code is amended to read:

1801. A conservator shall be designated by that title. Before his appointment shall be effective, he must take an oath that he will perform the duties of his office according to law, which oath shall be filed in the proceedings. The appointment as conservator and the taking and filing of such oath shall thereafter be evidenced by the issuance by the clerk of the court of letters of conservatorship in substantially the same form as letters of administration. Before letters of conservatorship may issue, a copy of the order appointing the conservator shall be served by mail upon the conservatee. Such order shall contain the names, addresses, and telephone numbers of the conservator, the conservatee's attorney, if any, and the court investigator, if any.

SEC. 29. Section 1851 of the Probate Code is amended to read:

1851. Every conservator of the person of a conservatee has the care, custody and control of the conservatee and may fix the residence of the conservatee at any place within this state, but not elsewhere without the permission of the court.

No person for whom a conservator of the person has been appointed shall be placed in a mental health treatment facility against his will. Involuntary civil mental health treatment for a conservatee shall be obtained only pursuant to the provisions of

Article 1 (commencing with Section 5150), Article 1.5 (commencing with Section 5170), Article 2 (commencing with Section 5200), Article 3 (commencing with Section 5225), 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), Article 7 (commencing with Section 5325), Article 8 (commencing with Section 5340), and Chapter 3 (commencing with Article 5350) of Division 5 of the Welfare and Institutions Code.

(a) All petitions filed under this chapter shall be set for hearing within 30 days of the filing of such petitions.

(b) The conservator shall promptly advise the court issuing the letters of conservatorship in writing of all changes in the residence of the conservatee.

SEC. 30. Section 1851.1 is added to the Probate Code, to read:

1851.1. Each conservatorship initiated pursuant to this chapter shall be reviewed by the court one year after the appointment of the conservator and biennially thereafter. The court investigator shall visit the conservatee and personally inform the conservatee that he is under a conservatorship and the name of his conservator. The investigator shall also determine whether the conservatee wishes to petition the court for termination of the conservatorship, whether the conservatee is still in need of the conservatorship, and whether the present conservator is acting in the best interests of the ward.

The findings of the court investigator, including the facts upon which such findings are based, shall be certified in writing to the court within 15 days of the date of review.

If the conservatee wishes to petition the court for termination of the proceeding or for removal of the existing conservator, the court shall notify the attorney of record for the conservatee, if any, or appoint the public defender or other attorney to file the petition and represent the conservatee at the hearing or trial.

If, based upon information contained in the court investigator's report, the court determines that a hearing for termination of the proceeding or removal of the existing conservator is in the best interests of the conservatee, the court shall notify the attorney of record for the conservatee, if any, or appoint the public defender or other attorney to file the petition and represent the conservatee at the hearing or trial.

If the court investigator is unable to locate the conservatee, the court shall serve notice upon the conservator to produce the conservatee within 15 days of the receipt of such notice or show cause why the conservatorship should not be terminated. If the conservatee is not produced within the time prescribed and if no good cause is shown for not producing the conservatee, the court shall terminate the conservatorship and order the conservator to file an accounting, if the conservatorship is of the estate.

SEC. 31. Section 1851.2 is added to the Probate Code, to read:

1851.2. For each conservatorship established prior to the

effective date of the amendments to this division adopted at the 1975–76 Regular Session of the Legislature, review pursuant to the terms of Section 1851.1 shall commence at the time of the next financial accounting, but in all cases within three years from the effective date of such amendments.

SEC. 32. Section 1853 of the Probate Code is amended to read:

1853. On the application of the conservator, made at any time, which application may be included in a petition filed pursuant to Section 1754, the court may grant to a conservator of the estate or of the person and estate of a conservatee any or all of the following additional powers, which may be exercised with or without notice, hearings, confirmation, or approval of the court and which may be exercised without regard to whether or not other requirements of this code shall have been complied with, except such requirements as shall have been specifically and expressly provided, whether directly or by reference, in the order granting such additional powers:

To institute and maintain all actions and other proceedings for the benefit of and to defend all actions and other proceedings against the conservatee or the conservatorship estate; to take, collect and hold the property of the conservatee; to contract for the conservatorship and to perform outstanding contracts and thereby bind the conservatorship estate; to operate at the risk of the estate any business, farm or enterprise constituting an asset of the conservatorship, to grant and take options; to sell at public or private sale; to create by grant or otherwise easements and servitudes; to borrow money and give security for the repayment thereof; to purchase real or personal property; to alter, improve and repair or raze, replace and rebuild conservatorship property; to let or lease property for any purpose including exploration for and removal of gas, oil and other minerals and natural resources and for any period, including a term commencing at a future time; to loan money on adequate security; to exchange conservatorship property; to sell on credit provided that any unpaid portion of the selling price shall be adequately secured; to vote in person or by proxy all shares and securities held by the conservator; to exercise stock rights and stock options; to participate in and become subject and to consent to the provisions of any voting trust and of any reorganization, consolidation, merger, dissolution, liquidation or other modification or adjustment affecting conservatorship property; to effect necessary insurance for the proper protection of the estate, to pay, collect, compromise, arbitrate or otherwise adjust any and all claims, debts or demands upon the conservatorship, including those for taxes; to abandon valueless property, and to employ attorneys, accountants, investment counsel, agents, depositaries and employees and to pay the expense therefor from the conservatorship estate.

Such additional powers shall be in addition to the general powers of conservators. The granting of said additional powers shall be discretionary with the court. Notice of the hearing of the application

therefor, except when the application is included in a petition filed pursuant to Section 1754, shall be given in the manner provided in Section 1200, including notice to the conservatee, and whenever any conservatee is or has been during the conservatorship confined in a state hospital in this state, such notice also shall be given by the conservator to the Director of the State Department of Health at his office in Sacramento. When additional powers are granted to a conservator, his letters shall state that he has the powers authorized in this section. If such additional powers are granted by a subsequent order, new letters shall be issued and shall state that he has such power or powers as have been granted. The grant of additional powers to the conservator shall not affect the right of the conservator to petition the court as provided in Section 1860.

SEC. 33. Section 1951 of the Probate Code is amended to read:

1951. A conservator, however appointed, may be removed by the court, after notice and hearing as provided by Section 1755, for any of the following causes:

1. For waste or mismanagement of the estate, or abuse of his trust;

2. For failure to file an inventory or to render an account within the time allowed by law or by court order, or for continued failure to perform his duties;

3. For incapacity to perform his duties suitably;

4. For gross immorality or conviction of a felony;

5. For having an interest adverse to the faithful performance of his trust;

6. In the case of a conservator of an estate, for insolvency or bankruptcy; or

7. When the conservatorship is no longer required.

8. In any other case in which the court shall in its discretion deem such removal to be for the best interests of the conservatee.

9. In the case of a conservator of the person, failure to comply with the provisions of Section 1851.

SEC. 34. Section 2006 is added to the Probate Code, to read:

2006. In any proceeding for the appointment of a conservator for the person and estate or person or estate of a proposed conservatee or for termination of a conservatorship under this division, the proposed conservatee shall be represented by legal counsel at the hearing, if he so chooses, irrespective of whether he appears to have capacity to make such choice. If he so chooses but is unable to retain legal counsel, the court shall, at the time of the hearing, appoint the public defender or other attorney to represent him.

The court shall hear and determine the matter according to the laws and procedure relating to civil actions, including trial by jury if demanded.

In any case in which the proposed conservatee or conservatee is furnished legal counsel, either through the public defender or private counsel appointed by the court, upon the conclusion of the hearing, the court shall make a determination of the present ability of the proposed conservatee or conservatee to pay all or a portion of

the costs of such counsel. If the court determines that the proposed conservatee or conservatee has the present ability to pay all or a portion of the costs, it shall order him or the conservator of the estate to pay the sum, in the case of the public defender, to the county, and in the case of private counsel, to such counsel, in any installments and manner which is believed reasonable and compatible with his financial ability. If a conservator is not appointed for the proposed conservatee, execution may be issued on the order in the same manner as on a judgment in a civil action.

SEC. 35. Section 2206 of the Probate Code is amended to read:

2206. (a) The appointment and qualification of a conservator terminates the powers of the temporary conservator except for the rendering of his account, unless by reason of an appeal therefrom or other cause the court appointing the conservator otherwise orders. If so ordered the court shall fix the time for the termination of the powers of the temporary conservator.

(b) Except as provided in subdivision (a) the powers of the temporary conservator shall not extend beyond 30 days unless the court, with or without notice as it may require, for good cause shall extend such powers pending the final determination of the court upon the petition for appointment of a conservator.

SEC. 36. There are no state-mandated local costs within the meaning of 2231 of the Revenue and Taxation Code imposed on local governmental entities in 1977–78 by this act. However, there are state-mandated local costs in this act in subsequent years that require reimbursement under Section 2231 of the Revenue and Taxation Code which can be handled in the regular budget process.

SEC. 37. Section 17.5 of this act shall become operative only if this bill and Senate Bill No. 1789 are both chaptered and become effective January 1, 1977, both amend Section 1510 of the Probate Code and this bill is chaptered after Senate Bill No. 1789, in which case Section 17 of this act shall not become operative.

SEC. 38. This act shall become operative on July 1, 1977.

CHAPTER 1358

An act to amend Sections 103021, 103300, 103301, 103302, and 103303 of, to amend the heading of Article 6 (commencing with Section 103300) of Chapter 5 of Part 15 of Division 10 of, and to add Sections 103022, 103301.5, and 103301.6 to, the Public Utilities Code, relating to transit districts.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 103021 of the Public Utilities Code is amended to read:

103021. "Existing system" means any transit service or system of a publicly or privately owned public utility, or division thereof, which was operating on January 1, 1974, entirely within the county, or which operated at least 75 percent of its revenue vehicle miles for 1973 within the county, but does not include a charter-party carrier or the charter service of a passenger stage corporation.

SEC. 2. Section 103022 is added to the Public Utilities Code, to read:

103022. "Existing taxi service" means any public passenger transportation service which (1) is not subject to the jurisdiction, control, and regulation of the Public Utilities Commission, (2) is available for hire on an exclusive or shared-ride basis, (3) is on call or demand over the public streets within the county in a motor vehicle of distinctive color or insignia equipped with a taximeter which is demand activated and operated by a licensed driver at the direction of passengers, and (4) was operating on January 1, 1974.

SEC. 3. The heading of Article 6 (commencing with Section 103300) of Chapter 5 of Part 15 of Division 10 of the Public Utilities Code is amended to read:

Article 6. Existing Systems and Services

SEC. 4. Section 103300 of the Public Utilities Code is amended to read:

103300. Notwithstanding any other provision of this part, before the district may establish any transit service or system which may significantly divert, lessen, or compete for the patronage or revenues of any existing system, other than an existing taxi service, the district shall give a written notice to the public utility or public agency which is operating the existing system. The written notice shall describe the transit service or system which the district proposes to establish and shall state the time within which the district proposes to establish such service or system.

SEC. 5. Section 103301 of the Public Utilities Code is amended to read:

103301. Where notice is required pursuant to Section 103300, the district shall not establish the proposed service or system, or maintain and operate the service or system, until it has completed the purchase of any existing system or any part thereof.

SEC. 6. Section 103301.5 is added to the Public Utilities Code, to read:

103301.5. Notwithstanding any other provision of this part, before the district may establish any demand-activated service or system which may, at any time, divert, lessen, or compete for the patronage or revenues of any existing taxi service, the district shall give a written notice to that service. The written notice shall describe the demand-activated service or system which the district proposes to

establish and shall state the time within which the district proposes to establish such service or system.

SEC. 7. Section 103301.6 is added to the Public Utilities Code, to read:

103301.6. If any demand-activated service or system operated by the district diverts or lessens the patronage or revenues of any existing taxi service by causing a loss of patronage or revenues in the affected service area of any existing taxi service to the extent of 10 percent or more, the district shall not continue its demand-activated service or system, or maintain and operate the service or system, until it has completed the purchase of any existing taxi service or any part thereof. No purchase of an existing taxi service, or part thereof, need be made by the district as a result of the establishment or operation by the district of any service or system other than a demand-activated service or system.

SEC. 8. Section 103302 of the Public Utilities Code is amended to read:

103302. The district and entity operating the existing system or the existing taxi service may agree upon the purchase price or they may agree that the purchase price is to be established by arbitration and upon the method of naming arbitrators and the method of conducting such arbitration.

SEC. 9. Section 103303 of the Public Utilities Code is amended to read:

103303. Section 851 shall not apply to any contract for sale or sale of an existing system or existing taxi service, or any portion thereof, pursuant to this chapter, and the Public Utilities Commission shall have no jurisdiction with respect thereto.

CHAPTER 1359

An act to add Section 21114.6 to the Vehicle Code, relating to skateboards.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 21114.6 is added to the Vehicle Code, to read:

21114.6. A local authority may adopt rules and regulations by ordinance or resolution prohibiting or restricting persons from riding or propelling skateboards in roadways.

CHAPTER 1360

An act to add Section 775 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 775 is added to the Public Utilities Code, to read:

775. Whenever an electric or gas corporation sells fuel oil which is, or is reasonably expected to be, useful in the performance of its public utility function, at a price higher than the electric or gas corporation's purchase cost, the commission shall, in any rate proceeding, require that the amount higher than the purchase cost be credited with interest against the expense claimed by the electric or gas corporation.

CHAPTER 1361

An act to amend Section 1812.30 of the Civil Code, relating to credit.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 1812.30 of the Civil Code is amended to read:

1812.30. (a) No person, regardless of marital status, shall be denied credit in his or her own name if the earnings and other property over which he or she has management and control are such that a person of the opposite sex managing and controlling the same amount of earnings and other property would receive credit.

(b) No person, regardless of marital status, managing and controlling earnings and other property shall be offered credit on terms less favorable than those offered to a person of the opposite sex seeking the same type of credit and managing and controlling the same amount of earnings and other property.

(c) No unmarried person shall be denied credit if his or her earnings and other property are such that a married person managing and controlling the same amount of earnings and other property would receive credit.

(d) No unmarried person shall be offered credit on terms less favorable than those offered to a married person managing and controlling the same amount of earnings and other property.

(e) For accounts established after January 1, 1977 or for accounts in existence on January 1, 1977 where information on that account is received after January 1, 1977, a credit reporting agency which in its normal course of business receives information on joint credit accounts identifying the persons responsible for such accounts, or receives information which reflects the participation of both spouses, shall: (1) at the time such information is received file such information separately under the names of each person or spouse, or file such information in another manner which would enable either person or spouse to automatically gain access to the credit history without having in any way to list or refer to the name of the other person, and (2) provide access to all information about the account in the name of each person or spouse.

(f) For all accounts established prior to January 1, 1977, a credit reporting agency shall at any time upon the written or personal request of a person who is or has been married, verify the contractual liability, liability by operation of law, or authorized use by such person, of joint credit accounts appearing in the file of the person's spouse or former spouse, and, if applicable, shall file such information separately and thereafter continue to do so under the names of each person responsible for the joint account or in another manner which would enable either person responsible for the joint account to automatically gain access to the credit history without having in any way to list or refer to the name of the other person.

(g) For the purposes of this chapter, "credit" means obtainment of money, property, labor, or services on a deferred-payment basis.

(h) For the purposes of this chapter, earnings shall include, but not be limited to, spousal and child support payments, pensions, social security, disability or survivorship benefits. Spousal and child support payments shall be considered in the same manner as earnings from salary, wages, or other sources where the payments are received pursuant to a written agreement or court decree to the extent that the reliability of such payments is established. The factors which a creditor may consider in evaluating the reliability of such payments are the length of time payments have been received; the regularity of receipt; and whether full or partial payments have been made.

(i) Nothing in this chapter shall be construed to prohibit a person from: (1) utilizing an evaluation of the reliability of earnings provided that such an evaluation is applied to persons without regard to their sex or marital status; or (2) inquiring into and utilizing an evaluation of the obligations for which community property is liable pursuant to the provisions of Title 8 (commencing with Section 5100) of Part 5 of Division 4 for the sole purpose of determining the creditor's rights and remedies with respect to the particular extension of credit, provided that such is done with respect to all applicants without regard to their sex; or (3) utilizing any other relevant factors or methods in determining whether to extend credit to an applicant provided that such factors or methods are applicable

to all applicants without regard to their sex or marital status. For the purpose of this subdivision, the fact that an applicant is of childbearing age is not a relevant factor.

(j) Credit applications for the obtainment of money, goods, labor, or services shall clearly specify that the applicant, if married, may apply for a separate account.

CHAPTER 1362

An act to add Sections 58762 and 58762.1 to the Government Code, relating to district securities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 58762 is added to the Government Code, to read:

58762. Notwithstanding the provisions of Sections 58752 and 58753, the issuance of any proposed bonds of a district whose qualified voters are required to be holders of title to property within the district, exclusive of bonds to be issued pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code) or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), shall be subject to prior investigation, report, and approval, and certification by the State Treasurer. No such district shall incur any of the following kinds of indebtedness or obligations with any public agency, private corporation, or other person, without the prior approval of the State Treasurer:

(a) Warrants payable at a future time or times to obtain funds or property, or notes if, in any year, the sum of the annual principal payment of such indebtedness and the annual principal payment to come due on the aggregate of all outstanding warrants and notes, exceeds the greater of one dollar ($1) per acre of land within the district or subdistrict, or one quarter of 1 percent of the assessed valuation of the land within the district or subdistrict.

(b) Contracts or agreements which obligate the district for periods longer than one year, and the annual principal payment for such obligation to come due in any year is greater than one quarter of 1 percent of the assessed valuation of land within the district or subdistrict.

Such assessed valuation shall be determined from the latest equalized assessment roll or rolls of the counties within which any such district or subdistrict is located. For purposes of this section, the term "bonds" shall include revenue bonds.

SEC. 2. Section 58762.1 is added to the Government Code, to read:

58762.1. (a) Notwithstanding any other provision of law, the members of the governing board of a district may be replaced, upon petition of a holder of outstanding bonds or other instrument of indebtedness as provided in Section 58762 which is in default, by a governing board appointed by the board of supervisors of the county in which the district, or the largest part thereof in area, is located if either one of the following events occurs:

(1) Where the district is in default on the payment of principal or interest on any outstanding bonds or other instruments of indebtedness for a period of 90 days and the holders of such bonds or instruments of indebtedness have not, prior to the date of default, agreed in writing to defer such payment of interest or principal; provided that the provisions of this subdivision shall not apply to contracts which are the subject of litigation between the district and the holder of such instrument to determine the rights and duties of the parties thereunder; or

(2) The district files a petition for reorganization or bankruptcy pursuant to applicable federal bankruptcy laws.

(b) In the event the board of supervisors does not act as provided in subdivision (a) within 90 days of notification by the State Treasurer of such default or of filing of a petition for reorganization or bankruptcy, the State Treasurer may replace the governing board of the district.

(c) Members of the governing board appointed by the board of supervisors or by the State Treasurer, pursuant to this section, shall be residents of the county within which the district or the largest part thereof in area is located, and shall exercise the rights, powers, and duties provided for by law applicable to such district. In selecting members to be appointed, preference shall be given to voters of the district if they are determined to be qualified to adequately perform the duties of a member of the governing board. Members appointed pursuant to this section shall hold office until six months after the State Treasurer determines that the district has corrected the default or the bankruptcy or reorganization proceedings have been completed. In the event a vacancy occurs on such governing board during such period, it shall be filled in the same manner as the original appointment pursuant to this section.

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

The United States Securities and Exchange Commission has filed a civil fraud action against Quimby Island Reclamation District No. 2090, its trustees, and various other individuals and organizations. Quimby Island Reclamation District No. 2090 has also filed a petition pursuant to the provisions of Chapter IX of the federal bankruptcy laws. In order to protect the high ratings and salability of bonds of

03706 28 11380 217

special districts in California, it is necessary that the provisions of this act go into immediate effect.

CHAPTER 1363

An act to add Section 54957.2 to the Government Code, relating to meetings.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 54957.2 is added to the Government Code, to read:

54957.2. The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each executive session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7, Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at an executive session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the executive session.

CHAPTER 1364

An act to repeal and add Chapter 1 (commencing with Section 38000) of Division 25 of the Health and Safety Code, relating to developmental disabilities.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Chapter 1 (commencing with Section 38000) of Division 25 of the Health and Safety Code, as added by Chapter 1594 of the Statutes of 1969, is repealed.

SEC. 2. Chapter 1 (commencing with Section 38000) is added to Division 25 of the Health and Safety Code, to read:

CHAPTER 1. GENERAL PROVISIONS

38000. This division shall be known and may be cited as the Lanterman Developmental Disabilities Services Act.

38001. The State of California accepts a responsibility for its developmentally disabled citizens and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important impact on the lives of their families, neighbors, and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance.

The complexities of providing services to developmentally disabled persons require the coordinated services of many state departments and community agencies to insure that no gaps occur in communication or provision of services.

Services should be planned and provided as a part of a continuum. A pattern of facilities and services should be established which is sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. To the maximum extent feasible, services should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

Services should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to nondisabled people of the same age.

The Legislature finds that the mere existence or the delivery of services is, in itself, insufficient evidence of program effectiveness. It is the intent of the Legislature that agencies serving the developmentally disabled shall produce evidence that their services have resulted in more independent, productive, and normal lives for the persons served. The Legislature declares its intent to monitor program results through continued legislative oversight and review of requests for appropriations to support developmental disabilities programs.

38002. Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the Federal Constitution and laws and the Constitution and laws of the State of California. No otherwise qualified person by reason of having a developmental disability shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity, which receives public funds.

It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:

(a) A right to treatment and habilitation services. Treatment and habilitation services should foster the developmental potential of the person. Such services shall protect the personal liberty of the

individual and shall be provided with the least restrictive conditions necessary to achieve the purposes of treatment.

(b) A right to dignity, privacy, and humane care.

(c) A right to participate in an appropriate program of publicly supported education, regardless of degree of handicap.

(d) A right to prompt medical care and treatment.

(e) A right to religious freedom and practice.

(f) A right to social interaction and participation in community activities.

(g) A right to physical exercise and recreational opportunities.

(h) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.

(i) A right to be free from hazardous procedures.

38004. Each developmentally disabled person who has been admitted or committed to a state hospital, community care facility as defined in Section 1504, or a health facility as defined in Section 1250 shall have the following rights, a list of which shall be prominently posted in English and Spanish in all facilities providing such services and otherwise brought to his attention by such additional means as the Director of Health may designate by regulation:

(a) To wear his own clothes, to keep and use his own personal possessions including his toilet articles, and to keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases.

(b) To have access to individual storage space for his private use.

(c) To see visitors each day.

(d) To have reasonable access to telephones, both to make and receive confidential calls.

(e) To have ready access to letterwriting materials, including stamps, and to mail and receive unopened correspondence.

(f) To refuse electroconvulsive therapy.

(g) To refuse behavior modification techniques which cause pain or trauma.

(h) To refuse psychosurgery notwithstanding the provisions of Sections 5325, 5326, and 5326.3 of the Welfare and Institutions Code. Psychosurgery means those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for any of the following purposes:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain.

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, action, or behavior.

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions, or behavior when the abnormality is not an established cause for those thoughts, feelings, action, or behavior.

(i) Other rights, as specified by regulation.

38005. The professional person in charge of the facility or his designee may, for good cause, deny a person any of the rights specified under subdivisions (a), (b), (c), (d), and (e) of Section 38004. To ensure that these rights are denied only for good cause, the Director of Health shall adopt regulations specifying the conditions under which they may be denied. Denial of a person's rights shall in all cases be entered into the person's treatment record and shall be reported to the Director of Health on a quarterly basis. The content of these records shall enable the Director of Health to identify individual treatment records, if necessary, for future analysis and investigation. These reports shall be available, upon request, to Members of the Legislature. Information pertaining to denial of rights contained in the person's treatment record shall be made available, on request, to the person, his attorney, his parents, his conservator or guardian, the State Department of Health, and Members of the Legislature.

38005.1. For the purposes of subdivisions (f) and (g) of Section 38004, if the patient is a minor age 15 years or over, the right to refuse may be exercised either by the minor or his parent, guardian, conservator, or other person entitled to his custody.

If the patient or his parent, guardian, conservator, or other person responsible for his custody do not refuse the forms of treatment or behavior modification described in subdivisions (f) and (g) of Section 38004, such treatment and behavior modification may be provided only after review and approval by a peer review committee. The Director of Health shall, by March 1, 1977, adopt regulations establishing peer review procedures for this purpose.

38006. It is the intent of the Legislature that the State Department of Health adopt staffing standards in state hospitals serving persons with developmental disabilities which will assure the maximum personal growth and development of those served. By March 1, 1977, the state department shall submit a report to the Legislature on the results of a pilot study of the staffing standards known as Program Review Unit Number 72, and shall include recommendations regarding modifications to such standards or similar standards developed by the state department.

The Legislature shall review and approve or disapprove staffing standards by May 1, 1977.

The state department shall adopt, and to the extent funds are available, begin implementation of the approved standards in the 1977–78 fiscal year.

It is further the intent of the Legislature that the adopted standards be fully implemented by June 30, 1980.

38007. Developmental disabilities alone shall not constitute sufficient justification for judicial commitment. Instead, persons with developmental disabilities shall receive services pursuant to this division. Persons who constitute a danger to themselves or others may be judicially committed if evidence of such danger is proven in court.

38008. Developmentally disabled persons may be released from state hospitals for provisional placement, with parental consent in the case of a minor or with the consent of an adult developmentally disabled person or his guardian or conservator, not to exceed six months, and shall be referred to a regional center for services pursuant to this division. Any person placed pursuant to this section shall have an automatic right of return to the state hospital during the period of provisional placement.

38009. By January 1, 1977, the Director of Health shall compile a roster of all persons who are in the custody of a state hospital, or on leave therefrom, pursuant to an order of judicial commitment as a mentally retarded person made prior to January 1, 1976. The appropriate regional center shall be given a copy of the names and pertinent records of the judicially committed retarded persons within its jurisdiction, and shall investigate the need and propriety of further judicial commitment of such persons under the provisions of Sections 6500 and 6500.1 of the Welfare and Institutions Code.

Each regional center shall complete all investigations required by this section within two years after the roster is submitted. In conducting its investigations, each regional center shall solicit information, advice, and recommendations of state hospital personnel familiar with the person whose needs are being evaluated.

For those persons found by a regional center to no longer require state hospital care, the regional center shall immediately prepare an individual program plan pursuant to Sections 38215 and 38216 for the provision of appropriate alternative services outside the state hospital.

If such alternative is not immediately available, the regional center shall give continuing high priority to the location and development of such services. As part of the program budget submission required in Section 38401, the regional director shall include a report specifying:

(1) The number of state hospital residents for whom a community alternative is deemed more suitable than a state hospital.

(2) The number of residents for whom no placement is made because of a lack of community services.

(3) The number, type, nature, and cost of community services that would be necessary in order for placement to occur.

For those persons found to be in continued need of state hospital care, the regional center shall either admit such person as a voluntary resident of the state hospital, or shall file a petition seeking the commitment of those persons for whom commitment is believed to be appropriate.

38009.1. Any developmentally disabled person residing in a state hospital who has not been judicially committed shall be considered a nonprotesting resident of a state hospital or a voluntary resident if the person has given informed consent to his admission.

Developmentally disabled, nonprotesting or voluntary residents

may leave a state hospital at any time after they, or their parent or legal guardian or conservator, request a discharge and complete state hospital discharge procedures.

The state hospital's discharge procedures for any resident may require an assessment, by an appropriate regional center, of the resident's condition, if in the opinion of the medical director of the state hospital immediate release of the resident may result in serious personal harm to the resident.

Whenever the state hospital discharge procedure for a resident requires assessment by a regional center, the resident shall continue to reside in the state hospital until such assessment is completed. The regional center shall complete its assessment of the condition of such persons within 14 days of receiving a request for assessment. In conducting its assessment, the regional center shall solicit information, advice, and recommendations of state hospital personnel familiar with medical, social and other needs of the person being assessed, and the person's parents or legal guardian or conservator.

For those persons found by a regional center to no longer require state hospital care, the person shall be released, and, if necessary, the regional center shall immediately prepare and administer an individual program plan pursuant to Sections 38215 and 38216 for the provision of appropriate alternative services outside the state hospital.

For those persons found to be in continued need of state hospital care, the regional center shall either readmit such persons as voluntary residents of the state hospital, pursuant to the provisions of Section 38453, or shall file a petition seeking commitment to the State Department of Health of those persons for whom commitment is believed to be more appropriate than voluntary placement.

38009.2. Whenever a regional center files a petition for commitment of a person pursuant to the provisions of Section 38009.1, judicial review shall be in the superior court for the county in which the state hospital is located. The person shall be informed of his right to counsel by a member of the staff of the state hospital, and by the court; and if he does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to represent him in the proceedings. The person shall pay the costs of such legal service if he is able.

At the time the petition for commitment is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of an evidentiary hearing in the matter, to the parent, guardian, or conservator of the person and to the director of the appropriate regional center and the state hospital. Such notice shall be sent by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return receipt requested.

The court shall either release the person or order an evidentiary hearing to be held not sooner than five judicial days nor more than

10 judicial days after the petition and notice have been mailed to the person's parent, guardian, or conservator and to the director of the appropriate regional center and state hospital.

If the court finds (a) that the person requesting release or for whom release is requested is not developmentally disabled, or (b) that the person is developmentally disabled and is able to provide safely for his basic personal needs for food, shelter, and clothing, and is able to protect himself from ordinary threats to life, health or safety, he shall be immediately released.

Notwithstanding the provisions of Section 6500.1 of the Welfare and Institutions Code, if the court finds that the person is developmentally disabled and that he is not capable of providing for his basic personal needs for food, clothing and shelter, and is not able to protect himself from ordinary threats to life, health or safety, and is not willing to accept suitable care and treatment on a voluntary basis, the person may be committed to the State Department of Health for suitable care and treatment.

For the purposes of this section, the legal status of minority does not, in itself, render a person incapable of providing for his basic personal needs for food, clothing, shelter and self-protection from ordinary threats to life, health or safety.

For the purposes of this section, suitable care and treatment is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Health under this section may include placement in any state hospital, any licensed community care facility as defined in Section 1504, or any health facility as defined in Section 1250.

Commitment under this section shall be for a period not to exceed one year. The State Department of Health may petition for renewed commitments under this section if such petition is made to the superior court at least 30 days prior to the termination of existing commitment.

Nothing in this section shall be construed to prevent the voluntary admission of developmentally disabled persons to state hospitals pursuant to Section 38221 or involuntary commitment of dangerous persons under Section 6500.1 of the Welfare and Institutions Code.

If in any proceeding under this section, the court finds that the person is developmentally disabled and has no parent, guardian, or conservator, and is in need of a guardian or conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a guardian or conservator for the developmentally disabled person.

38010. As used in this division:

(a) "Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial handicap for such individual. As defined by the Director of Health,

03800 28 11 495 240

in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

(b) "Services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, and includes, but is not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, sheltered employment, mental health services, recreation, counseling of the individual with such disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

SEC. 3. Sections 1 and 2 of this act shall become operative only if Assembly Bill No. 3801 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809 become effective, and in such event, Sections 1 and 2 of this act shall become operative at the same time as Assembly Bill No. 3801 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809 become effective.

CHAPTER 1365

An act to add Chapter 2 (commencing with Section 38050) to Division 25 of, and to repeal Chapter 5 (commencing with Section 38200) of Division 25 of, the Health and Safety Code, relating to developmental disabilities.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Chapter 2 (commencing with Section 38050) is added to Division 25 of the Health and Safety Code, to read:

CHAPTER 2. STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

Article 1. Composition and Appointments

38050. The Legislature finds that services for persons with developmental disabilities constitute a major expenditure of public funds, that such programs are provided by hundreds of public and private state and local agencies, that the legal, civil, and service rights of persons with developmental disabilities are frequently denied, and that there is no effective method for planning and coordinating the state's resources to assure these rights. Therefore, a State Council on Developmental Disabilities with authority independent of any single state service agency is needed and is hereby created.

38051. All references to "state council" in this division shall be references to the State Council on Developmental Disabilities.

(a) The state council shall consist of nine voting members. At least one voting member shall be a person with developmental disabilities. At least two voting members shall be parents or relatives of persons with mental retardation, of whom one such member shall be the parent of a resident of a state hospital and one such member shall be the parent of a person who is a resident of a community care facility.

In addition, one voting member shall represent persons with mental retardation, one voting member shall represent persons with cerebral palsy, one voting member shall represent persons with epilepsy, one voting member shall represent persons with autism, one voting member shall represent persons who are developmentally disabled for reasons attributable to conditions other than mental retardation, cerebral palsy, epilepsy, or autism, and one voting member shall represent the general public. Of the nine voting members, at least one shall be knowledgeable about public education for developmentally disabled persons.

(b) The Governor shall appoint two members who shall be nominated by the Speaker of the Assembly and two members who shall be nominated by the Senate Rules Committee. Prior to appointing the remaining five members, the Governor shall request and consider recommendations from organizations representing or providing services to persons who have developmental disabilities and shall give consideration to the various socioeconomic, ethnic, and geographic parts of the state.

(c) The Director of Health, the Director of Benefit Payments, the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, and the Director of the Department of Rehabilitation, or their designated representatives, shall serve as ex officio, nonvoting members of the state council. The County Supervisor's Association of California shall appoint one member to the state council, who shall serve as an ex officio, nonvoting member of the state council. The Organization of Area Boards shall appoint one member to the state council, who shall serve as an ex officio, nonvoting member of the state council. For the purposes of this

chapter, the Organization of Area Boards is defined as a committee consisting of the respective chairpersons of the area boards on developmental disabilities established pursuant to Chapter 4 (commencing with Section 38150).

(d) Of the members appointed by the Governor, three shall hold office for three years, three shall hold office for two years, and three shall hold office for one year. Subsequent members appointed by the Governor shall hold office for three years. In no event shall any member be appointed for more than two consecutive three-year terms.

38052. Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on the existing state council if such reappointment or replacement is in conformity with all of the criteria established in this chapter. Any individual presently serving on the existing state council may continue to serve beyond March 1, 1977, until a replacement is appointed, or 60 days, whichever comes first.

38053. Persons appointed to membership on the state council shall have demonstrated interest and leadership in human service activities.

Article 2. Conflict of Interest

38054. In order to prevent any potential conflicts of interest, voting members of the state council shall not be employed as providers of services to persons with a developmental disability, or be members of the governing board of any entity providing such service, when such service is funded in whole or in part with state funds.

Article 3. Location of State Council

38054.5. For administrative purposes only, the state council shall be attached to the State Department of Health. The State Department of Health shall cooperate fully with the state council by rendering efficient accounting, financial management, personnel, and other reasonable support services when requested by the council in the performance of its mandated responsibilities.

The attachment of the state council to the State Department of Health shall not limit the council's scope of concern to health programs or limit the council's responsibilities or functions regarding all other pertinent state and local programs, as defined in Article 5 (commencing with Section 38056).

The administrative attachment of the state council to the State Department of Health shall not be construed to interfere in any way with the provisions of Section 38060 requiring all personnel employed by the council to be solely responsible, organizationally and administratively, to the council.

Article 4. Organization

38055. The state council shall meet at least monthly, and, on call of its chairperson, as often as necessary to fulfill its duties. All meetings and records of the state council shall be open to the public.

The state council shall, by majority vote of the voting members, elect its own chairperson from among the nine appointed members, and shall establish such committees as it deems necessary or desirable. The chairperson shall appoint all members of committees of the state council.

The state council may appoint technical advisory consultants and may establish committees composed of professional persons serving persons with developmental disabilities as necessary for technical assistance. The state council may call upon representatives of all agencies receiving state funds for assistance and information, and may invite persons with developmental disabilities, their parents or guardians, professionals, or members of the general public to participate on state council committees.

On March 1, 1977, the existing State Developmental Disabilities Planning and Advisory Council shall terminate and all of its records and documents shall be transferred to the new State Council on Developmental Disabilities established by this chapter.

Article 5. State Council Functions

38056. In order to comply with the intent and requirements of this division and Federal Public Law 94-103, the state council, in addition to any other responsibilities established under this division, and to the extent that resources are available, shall:

(a) Be the "state planning council" responsible for developing the "California Developmental Disabilities State Plan," monitoring and evaluating the implementation of such plan, reviewing and commenting on other plans and programs in the state affecting persons with developmental disabilities, and submitting such reports as the Secretary of Health, Education and Welfare may reasonably request.

(b) Be the official designated agency for purposes of allocating all federal funds allotted to the state under the provisions of Public Law 94-103, and shall apportion these funds among agencies and area developmental disabilities boards in compliance with Sections 38058 and 38186, and shall apportion no more than 30 percent of the federal funds allotted to the state under the provisions of Public Law 94-103 to the Program Development Fund established pursuant to Section 38257.

(c) Evaluate and issue public reports on the programs identified in the state plan.

(d) Review and comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with developmental disabilities, including the Departments of Education,

Rehabilitation, Health, Transportation, Benefit Payments, Employment, Youth Authority, Corrections, and Parks and Recreation. Such review may include public hearings prior to the submission of the Governor's Budget to the Legislature, with advice directed to the Governor, and after introduction of the Governor's Budget, with advice directed to the Legislature.

(e) Prepare an annual written report of its activities, its recommendations, and an evaluation of the efficiency of the administration of the provisions of this division of the Health and Safety Code to the Governor and the Legislature.

(f) Review and publicly comment on significant regulations proposed to be promulgated by any state agency in the implementation of the provisions of this division.

(g) Monitor the execution of this division and report directly to the Governor and the Legislature any delay in the rapid execution of this division.

(h) Be responsible for monitoring and evaluating the effectiveness of appeals procedures established in this division.

(i) Provide testimony to legislative committees reviewing fiscal or policy matters pertaining to persons with developmental disabilities.

(j) Conduct, or cause to be conducted, investigations or public hearings to resolve disagreements between state agencies, or between state and regional or local agencies, or between persons with developmental disabilities and agencies receiving state funds. Such investigations or public hearings shall be conducted at the discretion of the state council only after all other appropriate administrative procedures for appeal, as established in state and federal law, have been fully utilized.

Except as otherwise provided in this division, the state council shall not engage in the administration of the day-to-day operation of service programs identified in the state plan, nor in the approval of individual grants, nor in the financial management and accounting of funds. These activities shall be performed by appropriate agencies designated in the state plan.

Article 6. Review of State Council

38057. Every three years the Legislative Analyst's office shall conduct an evaluation of the costs and effectiveness of the activities of the state council and shall report its findings to the Legislature.

Article 7. State Council Costs and Support Services

38058. No more than 25 percent of federal developmental disabilities funds received by the state under the provisions of Public Law 94-103 shall be allotted in any one year for purposes of supporting the state council's operating costs.

The state council's operating costs shall include honoraria and actual and necessary expenses for council members, and

administrative, professional, and secretarial support services.

Each member of the state council shall receive fifty dollars ($50) per day for each full day of work performed directly related to council business, not to exceed 50 days in any fiscal year, and shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this division.

38059. Within the limit of funds allotted for such purposes, the state council chairperson, with the concurrence of a majority of the state council, shall appoint an executive director, and such other staff to the state council as it may require.

The executive director shall be paid a salary which is comparable to the director of other state boards and commissions with similar responsibilities. The executive director shall be exempt from civil service. All other state council employees shall be appointed by the executive director, with the approval of the state council.

38060. The state council may contract for additional technical assistance with any public or private agency or individual to carry out planning, monitoring, evaluation, and other responsibilities under this division. In order to comply with Federal Public Law 94-103 regulations, all personnel employed by the state council shall be solely responsible, organizationally and administratively, to the state council. The state council shall have responsibility for the selection, hiring, and supervision of all such personnel.

38061. The state council may request information, records, and documents from any other agency of state government, except for confidential patient records. All such agencies shall comply with the reasonable requests of the state council.

38062. The state council may request area boards on developmental disabilities to assist the state council in carrying out any of the state council's responsibilities in the various regions of the state.

SEC. 2. Chapter 5 (commencing with Section 38200) of Division 25 of the Health and Safety Code, as added by Chapter 1594 of the Statutes of 1969, is repealed.

SEC. 3. Sections 1 and 2 of this act shall become operative only if Assembly Bill No. 3800 and Assembly Bill No. 3802 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809 become effective, and in such event, Sections 1 and 2 of this act shall become operative at the same time Assembly Bill No. 3800 and Assembly Bill No. 3802 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809 become effective.

03801 28 11585 258

CHAPTER 1366

An act to add Chapter 3 (commencing with Section 38100) to Division 25 of the Health and Safety Code, relating to developmental disabilities.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Chapter 3 (commencing with Section 38100) is added to Division 25 of the Health and Safety Code, to read:

CHAPTER 3. CALIFORNIA DEVELOPMENTAL DISABILITIES STATE PLAN

38100. The Legislature finds that whenever multiple, uncoordinated, and duplicative planning activities are conducted by different state agencies on behalf of persons with developmental disabilities, the result is confusion of responsibilities, a lack of systemwide priorities, and failure to make the most appropriate use of all federal, state, and local funds and programs.

38101. In order to integrate all relevant state planning and budgeting, and in order to comply with federal requirements, a California Developmental Disabilities State Plan shall be prepared by the state council each year. All references in this division to "state plan" shall be references to the California Developmental Disabilities State Plan.

The state plan shall include, but not be limited to, the following parts:

(a) A part describing existing publicly funded services for persons with developmental disabilities within the state, and within each area of the state, including the numbers and types of persons receiving such services, the amount and sources of funding of such services, the agencies responsible for administration, and the effectiveness of such services in helping developmentally disabled persons live more independent, productive, and normal lives.

(b) A part recommending priorities for program and facility development or expansion. Such recommendations shall include statements of justification of need, specific objectives of programs to be developed, amount and sources of funding, timing and agencies responsible for implementation. The priorities for program and facility development or expansion contained in this part shall include specific recommendations with regard to the findings of regional centers resulting from their investigations carried out pursuant to Section 38009.

(c) A part listing the priority recommendations for program termination, modification, or reduction. Such recommendations

shall include statements of justification or lack of need, or evidence of program ineffectiveness, or evidence of discrimination against persons with developmental disabilities, or evidence of unnecessarily high costs in relation to program results. Recommendations for program termination, modification, or reduction shall also include a statement of the amount and sources of funds to be saved or reallocated to other programs and the timing and agencies responsible for implementation.

(d) A part describing the procedures that shall be used for evaluating all programs identified in the state plan, the costs and sources of funds for such evaluation, and the agencies responsible for evaluation.

(e) A part describing the administrative responsibility of state agencies involved in implementing all aspects of the state plan and a description of the amount and sources of funds required for such administration.

(f) A part describing the amount of federal funds, from Public Law 94-103, that shall be allotted to the state council, area boards, and state and nonstate agencies for services, planning, advocacy, construction, and other approved purposes as defined in federal law and regulations.

38102. After January 1, 1978, and each year thereafter, all plans prepared by any agency of state government, which include specific program elements relating to services for persons with developmental disabilities, shall separately identify and describe each such program element as to its suitability for inclusion in the state plan. Program elements accepted for inclusion in the state plan shall be given a priority rating.

Any program elements not accepted for inclusion in the state plan shall be appended to the state plan with a written statement explaining the reasons why such program elements were excluded. Before excluding any program element contained in any state agency's plan, the agency shall be informed of the state council's intentions and shall be given an opportunity to confer with the state council.

38103. Within the limit of funds made available, programs and program elements contained in the state plan shall be considered to be endorsed by the state council and acceptable for financial support through state or federal funding sources.

Program elements excluded from the state plan shall be considered to have no state council endorsement for financial support.

38103.5. The state council shall conduct open hearings on the state plan and related budgetary issues prior to submission of the plan pursuant to Section 38104. Such hearings shall be conducted during the month of September of each year in order to coincide with the preparation of the annual Governor's Budget.

38104. The state plan shall be given to the Governor, the Secretary of the Health and Welfare Agency, the Superintendent of

Public Instruction, the Legislature, and to the chairpersons of all area boards for review and comment prior to its submission by the chairperson of the state council to the Secretary of Health, Education, and Welfare.

Copies of the state plan shall be provided, no later than November 1 of each year, to the Director of Finance and to the Legislature for guidance in the development of the Governor's Budget and legislative review of the budget, and for guidance in other legislation pertaining to programs for persons with developmental disabilities.

38105. The state plan shall, in addition to the requirements established herein, comply in substance and format with requests of the Secretary of Health, Education, and Welfare.

38106. All state agencies shall cooperate with the reasonable requests of the state council by providing information to the state council in the preparation of the state plan. Any expenditures incurred by state agencies in providing such assistance to the state council shall be identified in the state plan and in the state agency's annual budget. Such expenditures may be funded in whole or in part by state funds appropriated as the required state share of the developmental disabilities program, or by federal funds from Public Law 94-103, or both, when the state council allots funds for such purposes in the state plan.

38107. In no event shall the state council allot federal funds from Public Law 94-103 to state agencies to replace state funds currently allocated to such agencies for the purpose of planning programs for persons with developmental disabilities.

SEC. 2. Section 1 of this act shall become operative only if Assembly Bill No. 3800, Assembly Bill No. 3801, and Assembly Bill No. 3803 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809 become effective, and in such event, Section 1 of this act shall become operative at the same time Assembly Bill No. 3800, Assembly Bill No. 3801, and Assembly Bill No. 3803 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809 become effective.

CHAPTER 1367

An act to add Chapter 4 (commencing with Section 38150) to, and to repeal Chapter 2 (commencing with Section 38050) of, Division 25 of the Health and Safety Code, relating to the developmentally disabled.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Chapter 2 (commencing with Section 38050) of Division 25 of the Health and Safety Code, as added by Chapter 1594 of the Statutes of 1969, is repealed.

SEC. 2. Chapter 4 (commencing with Section 38150) is added to Division 25 of the Health and Safety Code, to read:

CHAPTER 4. AREA BOARDS ON DEVELOPMENTAL DISABILITIES

Article 1. General

38150. Because of the vast size, complexity, and diversity of the State of California, the Legislature finds that the legal, civil, and service rights of persons with developmental disabilities will not be adequately guaranteed throughout the state unless monitoring responsibility is established on a regional basis through area boards on developmental disabilities.

38151. The area boards in existence as of January 1, 1976, shall continue to exist, within the same geographic regions of the state after January 1, 1977, but shall thereafter be constituted and shall operate according to the provisions of this division.

38152. The Director of Health, in cooperation with the State Council on Developmental Disabilities, shall, by January 1, 1978, and periodically thereafter, conduct a thorough review of the geographic boundaries served by area boards to determine whether additional area boards should be established to more effectively implement the provisions of this division. In conducting such review, the director shall seek the advice of the state council, area boards, and consumers of services.

Article 2. Composition and Appointments

38155. After January 1, 1977, area boards shall be comprised, as follows:

(a) For areas consisting of one to four counties, the area board shall consist of a total of 12 voting members appointed by the governing bodies of the counties, each county appointing an equal number of voting members, and five voting members appointed by the Governor.

(b) For areas consisting of five to seven counties, the area board shall consist of two voting members appointed by the governing body of each county, and five voting members appointed by the Governor.

(c) For areas consisting of eight or more counties, the area board shall consist of one voting member appointed by the governing body of each county, and five members appointed by the Governor.

Of the members first appointed, five shall serve for one year, five shall serve for two years, and the remaining members shall serve for three years. Subsequent members shall serve for three years. In counties with more than 100,000 population, no member shall serve

more than two consecutive three-year terms.

38156. The governing bodies of the counties in each area shall select their appointees from among the following groups, and, to the extent feasible, in the following proportions:

(a) Persons with developmental disabilities or the parents or legal guardians of such persons—50 percent;

(b) Representatives of the general public—50 percent.

38157. Prior to making their appointments, the Governor and the governing bodies of counties shall request recommendations from professional organizations, from organizations within the area representing persons with developmental disabilities, and from organizations and agencies within the area that deliver services to such persons.

In making their appointments, the Governor and the governing bodies of counties shall appoint persons who have demonstrated interest and leadership in human service activities.

38158. In order to prevent any potential conflicts of interest, voting members of area boards shall not be employed as providers of service to persons with developmental disabilities, or be members of the governing board of any entity providing such service, when such service is funded in whole or in part with state funds.

38159. The Governor shall give consideration to the relative populations of the counties within the area in selecting his appointees to the area boards.

Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on an existing area board, provided any such reappointment is in conformity to all of the criteria established in this chapter. Any individual presently serving on an existing area board may continue to serve beyond January 1, 1977, until a replacement is appointed, or 60 days, whichever comes first.

All members of the area board shall be residents of the area.

Article 3. Organization

38165. The members of an area board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties as members of the board or of committees established by the board.

Each area board shall meet at least quarterly, and on call of the board chairperson, as often as necessary to fulfill its duties. All meetings and records of the area board shall be open to the public.

38166. Each area board shall, by majority vote of the voting members, elect its own chairperson from among the appointed members, and shall establish such committees as it deems necessary or desirable. The board chairperson shall appoint all members of committees of the area board.

An area board shall appoint a professional advisory committee

composed of professional persons serving individuals with developmental disabilities. The professional advisory committee shall provide advice, guidance, recommendations, and technical assistance to the area board in order to assist the area board in carrying out its mandated functions enumerated in Article 4 (commencing with Section 38170) of this chapter. Such professional advisory committee shall designate one of its members to serve as an ex officio member of the area board. An area board may call upon representatives of all agencies receiving state funds for assistance and information, and may invite persons with developmental disabilities, their parents or guardians, professionals or members of the general public to participate on area board committees.

Article 4. Area Board Functions

38170. Area boards shall protect and advocate the rights of all persons in the area with developmental disabilities.

The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the legal, civil, and service rights of persons who require services or who are receiving services in the area.

The area board shall identify any evidence of the denial of such rights; shall inform the appropriate local, state, or federal officials of their findings, and shall assist such officials in eliminating all forms of discrimination against persons with developmental disabilities in housing, recreation, education, health and mental health care, employment, and other service programs available to the general population.

38171. Area boards shall conduct or cause to be conducted public information programs for professional groups and for the general public, to increase professional and public awareness of prevention and habilitation programs, and to eliminate barriers to social integration, employment, and participation of persons with developmental disabilities in all community activities.

38171.5. Area boards shall encourage and assist in the establishment of independent citizen advocacy organizations that provide practical personal services to individuals with developmental disabilities. Such citizen advocacy organizations shall be established for the purpose of recruiting, training, and assigning volunteers to work with individuals with developmental disabilities to assist them in using community services and participating in community activities.

Area boards shall recommend to the state council independent citizen advocacy organizations that shall be considered for federal funding under the provisions of Public Law 94-103.

38172. To the extent that resources are available, area boards shall review the policies and practices of publicly funded agencies that serve or may serve persons with developmental disabilities to determine if such programs are meeting their obligations under

local, state, and federal statutes. If any noncompliance is determined, the area board shall inform, in writing, the director and the managing board of such noncomplying agency of its findings.

If the agency fails to alter its policies in order to comply with the law within 30 days and after all other informal efforts to assist the agency have been exhausted, the area board may conduct a public hearing to receive testimony on the issue of the agency's noncompliance.

At least 30 days notice of an area board's public hearing on noncompliance shall be given to the general public, to the agency, and to the state, federal, or local authorities responsible for allocating funds to the agency. The public hearing shall be conducted informally for the purpose of finding a solution, and all parties shall have an opportunity to be represented and to testify but shall be recorded.

If the problem has not been resolved within 30 days following the public hearing, the area board may notify the state council and may request authorization to initiate legal action. An area board shall not initiate legal action without prior authorization from the state council.

38172.5. In carrying out their review functions, area boards shall solicit the advice of knowledgeable professionals, consumers, and consumer representatives about problems within the service delivery system in the region. In enacting this chapter, it is the intent of the Legislature that the area boards not duplicate the functions assigned to other agencies that are routinely responsible for monitoring, regulating, or licensing programs for developmentally disabled persons. Area boards may call upon such agencies for information and assistance in order to carry out their responsibilities more effectively. Unless otherwise prohibited by law, such agencies shall provide information requested by the area boards and shall cooperate fully in complying with all reasonable requests for assistance.

38173. The executive director of the state council shall review the proceedings of the public hearing under Section 38172 and may conduct additional factfinding investigations. The executive director shall report his findings to the state council within 30 days and shall recommend a course of action to be pursued by the council, the area board, or other state administrative or legislative officials.

The state council shall review the report of the executive director and shall take such action as it deems necessary to resolve the problem. If the council authorizes the area board to initiate legal action, the state council shall make available to the area board legal assistance through the legal services provisions of Public Law 94-103.

The state plan shall include an annual allotment of federal funds from Public Law 94-103 to be utilized for such legal assistance to area boards.

38174. Area boards shall remain informed about the quality of services in the area and shall inform appropriate state and local

licensing agencies of alleged fire, safety, health, or other violations of legally established standards, in any facility providing service to persons with developmental disabilities, that may be brought to the attention of the area board.

If an area board receives evidence of criminal misconduct by an individual or agency funded in whole or in part with state funds under this division, the area board shall immediately inform appropriate law enforcement agencies about the alleged misconduct.

38175. Area boards shall assist the state council in the preparation of the state plan by submitting such information concerning the area's services, needs, and priorities as may be requested by the state council. Planning information requested by the state council shall be submitted at such time as requested by the state council. The format for such planning information shall be developed through consultation with the Organization of Area Boards.

38175.5. The Organization of Area Boards shall consist of the respective chairpersons of the individual boards established under the provisions of this chapter. The purposes of this organization shall include activities to resolve common problems, improve coordination, exchange information between areas, and provide advice and recommendations to state agencies, the Legislature, and the state council.

38176. Area boards shall cooperate with county coordinating councils on developmental disabilities, other regional planning bodies, and consumer organizations in the area. Area boards shall comply with the reasonable requests of such groups and may request the assistance of such groups in carrying out area board responsibilities.

The governing body of any county within the area may request the area board to study or investigate programs in the county, for persons with developmental disabilities. The area board shall cooperate with county governments to the fullest extent possible within the limitations of the resources of the board.

38177. Each area board may, but shall not be required to, adopt an areawide developmental disabilities plan. The purpose of such area plans shall be to organize in one document information about service needs, priorities, program objectives, and the availability and quality of programs for persons with developmental disabilities in the area. If an area plan is deemed necessary, such plan shall be made available to be used by the area board and its committees, other organizations and planning bodies in the area, and the state council. If an area plan is not deemed necessary, the area board shall develop a list and description of local needs and priorities. Such list and description shall be submitted to the state council pursuant to Section 38175 and shall be disseminated to other organizations and planning bodies in the area.

38178. Area boards shall encourage the development of needed services of good quality and shall coordinate such developments to

prevent duplication, fragmentation of services, and unnecessary expenditures. Prior to providing additional funds for major expansion of existing programs for persons with developmental disabilities or the establishment of new programs in an area, state agencies shall consult with the area board regarding the appropriateness of such program developments. This provision shall not apply to state funds for public education allocated on an apportionment basis pursuant to state law.

Article 5. Review of Area Boards

38180. On January 1, 1978, and each year thereafter, each area board shall submit to the state council a summary of its activities and accomplishments in such form as shall be required by the state council.

38181. Every three years the Legislative Analyst shall conduct an evaluation of the costs and effectiveness of the activities of area boards and shall report his findings to the Legislature.

Article 6. Area Board Costs and Support Services

38185. The Legislature finds that the advocacy, coordinating, appeals, and other related functions of area boards cannot be effectively provided unless area boards have staff support services from personnel directly responsible and accountable only to the area board.

In order to prevent potential conflicts of interest, personnel employed by area boards shall not be state employees. If any personnel employed by area boards are supported by county funds, such employees shall be solely accountable to the area board for administrative direction.

38186. Each year each area board shall present for consideration by the state council a proposal for funds to support the activities of the area board. The state council shall review all area board proposals and shall include in the state plan the amount of federal funds under Public Law 94-103 that shall be allotted to each area board.

In allotting funds to area boards, in the state plan, the state council shall allot no more than 45 percent of federal Public Law 94-103 developmental disabilities funds to all area boards in any one year. Nothing in this section shall prevent the appropriation of additional funds to area boards from the General Fund.

Area boards may receive grants of funds in addition to an allocation of state funds or federal funds under Public Law 94-103 as authorized under this division. Such funds shall be used only for purposes of extending the area boards' activities as authorized in this division.

38187. Each area board may appoint an executive secretary who may appoint persons to such staff positions as the area board may authorize. The affirmative votes of a majority of the members of the area board shall be necessary for the appointment or removal of an executive secretary.

Each area board may contract for additional technical assistance to carry out its duties as established by this division.

38188. Notwithstanding any other provision of law, any contract entered into between the State of California and an area board may provide for periodic advanced payments for services to be performed under such contract. No advanced payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

SEC. 3. Sections 1 and 2 of this act shall become operative only if Assembly Bill No. 3800 to Assembly Bill No. 3802, inclusive, and Assembly Bill No. 3804 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809, become effective, and in such event, Sections 1 and 2 of this act shall become operative at the same time Assembly Bill No. 3800 to Assembly Bill No. 3802, inclusive, and Assembly Bill No. 3804 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809, become effective.

CHAPTER 1368

An act to repeal Chapter 3 (commencing with Section 38100) of, and to add Chapter 5 (commencing with Section 38200) to, Division 25 of the Health and Safety Code, relating to developmental disabilities.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Chapter 3 (commencing with Section 38100) of Division 25 of the Health and Safety Code, as added by Chapter 1594 of the Statutes of 1969, is repealed.

SEC. 2. Chapter 5 (commencing with Section 38200) is added to Division 25 of the Health and Safety Code, to read:

CHAPTER 5. REGIONAL CENTERS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

Article 1. Regional Center Contracts

38200. In order for the state to carry out many of its responsibilities as established in this division, the state shall contract with appropriate agencies to provide fixed points of contact in the community for persons with developmental disabilities and their families, to the end that such persons may have access to the facilities and services best suited to them throughout their lifetime. It is the intent of this division that the network of regional centers for persons

with developmental disabilities and their families be accessible to every family in need of regional center services.

The Legislature finds that the service provided to individuals and their families by regional centers is of such a special and unique nature that it cannot be satisfactorily provided by state agencies. Therefore, private nonprofit community agencies shall be utilized by the state for the purpose of operating regional centers.

38201. The State Department of Health (hereinafter, unless otherwise indicated, referred to in this chapter as "the department"), within the limitations of funds appropriated, shall contract with appropriate private nonprofit corporations for the establishment of regional centers.

Notwithstanding any other provision of law, any contract entered into pursuant to this section may provide for periodic advance payments for services to be performed under such contract. No advance payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

38202. After July 1, 1978, the state shall contract only with agencies, the governing boards or the program policy committees of which conform to the following criteria:

(a) The governing board or the program policy committee shall be composed of individuals with demonstrated interest in, or knowledge of, developmental disabilities.

(b) The membership of the governing board or the program policy committee shall include persons with legal, management, public relations, and developmental disability program skills.

(c) The membership of the governing board or the program policy committee shall include representatives of the various categories of disability to be served by the regional center.

(d) The governing board or the program policy committee shall reflect the geographic and ethnic characteristics of the area to be served by the regional center.

(e) A minimum of one-third of the members of the governing board or the program policy committee shall be persons with developmental disabilities or their parents or legal guardians.

(f) Members of the governing board or the program policy committee shall not be permitted to serve longer than six consecutive years.

Nothing in this section shall prevent the appointment to a regional center governing board or the program policy committee of a person who meets the criteria for more than one of the categories listed above.

38202.1. In the event that the governing board of the regional center is not composed of individuals as specified in subdivisions (a) to (f), inclusive, of Section 38202, such governing board shall establish a program policy committee which is composed of such individuals. The program policy committee shall appoint one of its members to serve as an ex officio member of the governing board.

38202.2. When the governing board of the regional center is not

composed of individuals as specified in subdivisions (a) to (f), inclusive, of Section 38202, the program policy committee to the regional center shall be responsible for establishing the program policies of the regional center. All program policies adopted by a program policy committee shall conform to the provisions of this division and the contract between the State Department of Health and the governing board.

38202.3. After January 1, 1977, the department shall not contract with any new regional center contracting agency unless the governing board of such agency is composed of individuals as specified in subdivisions (a) to (f), inclusive, of Section 38202.

38203. In order to prevent potential conflicts of interest, no member of the governing board, or in those regional centers wherein a program policy committee is responsible for establishing program policies as defined in Section 38202.2, no member of the program policy committee of a regional center, shall be an employee of a state agency, or an employee or member of the state council or an area board, or an employee or a member of the governing board of any entity from which the regional center purchases services.

38203.1. The director of the department shall promulgate and enforce conflict of interest regulations to insure that members of the governing board, program policy committee, and employees of the regional center make decisions with respect to the regional centers that are in the best interests of the center's clients and families.

38204. If, for good reason, a contracting agency is unable to meet all the criteria for a governing board established in this chapter, the Director of Health may waive such criteria for a period of time, not to exceed one year, with the approval of the area board in the area and with the approval of the state council.

38205. After January 1, 1977, contracts between the state and the governing boards of regional centers shall include reasonable specific performance and reporting requirements relative to the responsibilities of regional centers defined in this division, and the timing for compliance with such requirements. The department shall specify procedures to be used by all regional centers which shall:

(a) Define "active" and "inactive" cases.

(b) Account for all funds received or expended by regional centers.

(c) Define a unit of direct service performed by regional center personnel.

(d) Allocate indirect, administrative, and overhead expenditures to a unit of direct service.

(e) Calculate costs per unit of direct service.

(f) Provide such other information as the department may require to analyze expenditures, conduct comparative cost and performance reviews, and implement the evaluation requirements in Chapter 8 (commencing with Section 38350).

Contracting agencies shall agree to use procedures specified by the

department to produce caseload and unit of service cost reports.

38205.1. The contract between the state and contracting agency shall not:

(a) Require information that violates client confidentiality.

(b) Prevent a regional center from employing innovative programs, techniques, or staffing arrangements which may reasonably be expected to enhance program effectiveness.

(c) Contain provisions which impinge upon the legal rights of private corporations chartered under California statutes.

38205.2. The department's contract with a regional center shall require strict accountability and reporting of all expenditures, and strict accountability and reporting as to the effectiveness of the regional center in carrying out its program and fiscal responsibilities as established herein.

38205.3. If the department and a regional center are unable to resolve any contract dispute, either party may request the state council to review and advise with regard to the issues in dispute. The state council shall review and shall provide its advice in writing within 30 days of receiving a request for such review and advice. Copies of the state council's advice shall be transmitted to the Director of Health and the governing board of the regional center. The state council's advice shall not be binding upon either party.

38205.4. If the department or any regional center intends to adopt any material change in policy which will have a direct effect upon the contract between the state and the regional center, the department or the regional center shall give at least 30 days notice of an intent to change policy, and, if necessary, the contract between the state and such regional center shall be amended. The department shall not require regional centers to provide or purchase any services beyond the level of the funding appropriation for such services. If the department should alter the rates of payments to providers, the regional center budget shall be adjusted accordingly.

38206. Contracts between the department and regional center shall be presented for final negotiation to regional center governing boards at least 90 days prior to the effective date of such contracts. A regional center shall not be expected to perform functions not specified in the contract without a revision of such contract.

38207. If any regional center finds that it is unable to comply with the requirements of this division or its contract with the state, the regional center shall be responsible for informing the department immediately that it does not expect to fulfill its contractual obligations. Failure to provide such notification to the department in a timely manner shall constitute grounds for possible revocation of the contract. If any regional center makes a decision to cancel its contract with the department, such regional center shall give a minimum of 90 days written notice of its intention.

If the department finds that any regional center is not fulfilling its contractual obligations, the department shall make reasonable efforts to resolve the problem, including the provision of technical

assistance to the regional center or renegotiation of the contract.

If the department finds that any regional center continues to fail in fulfilling its contractual obligations after reasonable efforts have been made, and finds that other regional centers are able to fulfill similar obligations under similar contracts, and finds that it will be in the best interest of the persons being served by the regional center, the department shall take steps to terminate the contract and to negotiate with another governing board to provide regional center services in the area. Prior to the initiation of termination procedures, the contracting agency or the department may initiate the procedures for resolving disputes contained in Section 38205.3.

When terminating a regional center contract and negotiating with another governing board for a regional center contract, the department shall:

(a) Notify the area board, all personnel employed by the regional center, all vendors of service to the regional center, and all clients of the regional center informing them that the contract with the regional center is to be terminated, and that the state will continue to fulfill its obligations to assure a continuity of services, as required by state law, through a contract with a new governing board.

(b) Request the area board and any other community agencies to assist the state by locating or organizing a new governing board to contract with the department to operate the regional center in the area. Area boards shall cooperate with the department when such assistance is requested.

(c) Provide such assistance as may be required to assure that the transfer of responsibility to a new regional center will be accomplished with minimum disruption to the clients of the service program.

38208. If necessary, to avoid disruption to the service program, the department may directly operate a regional center during the interim period between the termination of its contract with one governing board and the assumption of operating responsibility by a regional center contract with another governing board. In no event shall the department directly operate a regional center program for longer than 120 days before contracting with a new governing board. The department may, if requested by the new governing board, continue to provide additional assistance to avoid disruption of the service program, until such time as the governing board has assumed full responsibility for the operation of the program.

Article 2. Regional Center Responsibilities

38209. Contracts between the department and regional centers shall specify the service area and the categories of persons that regional centers shall be expected to serve and the services to be provided. In order to assure uniformity in the application of the definition of developmental disability contained in this division, the Director of Health shall, by March 1, 1977, issue regulations that

delineate, by diagnostic category and degree of handicap, those persons who are eligible for service by regional centers. In issuing the regulations, the director shall invite and consider the views of regional center contracting agencies, the state council, and persons with a demonstrated and direct interest in developmental disabilities.

38210. All regional centers shall conduct case-finding activities, including notification of availability of service in English and such other languages as may be appropriate to the service area, outreach services in areas with a high incidence of developmental disabilities, and identification of persons who may need service.

38211. Any person believed to have a developmental disability, and any person believed to be a high risk of parenting a disabled infant, shall be eligible for initial intake and assessment services in the regional centers.

Initial intake shall be performed within 15 working days following request for assistance. Initial intake shall include, but need not be limited to, information and advice about the nature and availability of services provided by the regional center and by other agencies in the community, including guardianship, income maintenance, mental health, housing, education, work activity and vocational training, medical, dental, recreational, and other services or programs that may be useful to persons with developmental disabilities or their families. Intake shall also include a decision to provide assessment.

38212. If assessment is needed, it shall be performed within 60 days following initial intake. Assessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs. If unusual circumstances prevent the completion of assessment within 60 days following intake, such assessment period may be extended by one 30-day period with the advance written approval of the department.

38213. In addition to any person eligible for initial intake or assessment services, regional centers may provide or cause to be provided preventive services to any potential parent determined to be at high risk of parenting a disabled infant.

38214. If any person requests regional center services and is found to be ineligible for such services, the reasons for denial shall be presented in writing to the applicant and, if necessary, a referral to other appropriate services shall be arranged. In such cases, the applicant shall also be advised in writing of the appeals procedure established in this division.

38215. On and after January 1, 1977, an individual program plan may be developed for any person who, following intake and assessment, is found to be eligible for, and in need of, such plan. Such plans shall be completed within 60 days of the completion of assessment.

Individual program plans shall be prepared jointly by one or more

representatives of the regional center, the developmentally disabled person, and where appropriate, the person's parents, legal guardian, or conservator.

The program plan shall include the following:

(a) An assessment of the developmentally disabled person's specific capabilities and problems. The regional centers, in cooperation with the department, shall adopt an approved list of tests to be used by all regional centers in making such assessments. The test or tests used shall have been determined to be reliable and valid by acceptable statistical methods.

(b) A statement of specific, time-limited objectives for improving the capabilities and resolving the problems of the person. Such objectives shall be stated in measurable terms which allow measurement of progress.

(c) A schedule of the type and amount of services to achieve program plan objectives, including identification of the provider or providers of service responsible for attaining each objective.

(d) A schedule of regular periodic review and reassessment to ascertain that planned services have been provided and that objectives have been reached within the times specified. The same test or tests used to measure client capabilities and problems shall be used for review and reassessment.

(e) All individual program plans shall be reviewed and modified, if necessary, at least annually by the regional center representative and the person, the person's parents, legal guardian, or conservator.

The state department, with the participation of regional center personnel, shall prepare a standard format for the preparation of individual program plans, which shall be used by all regional centers.

38215.1. By January 1, 1979, all active cases shall have an individual program plan as specified in Section 38215.

38216. In order to achieve the stated objectives of any individual program plan, the regional center shall conduct activities including, but not limited to, the following:

(a) Program coordination which may include securing, through purchase or referral, services specified in the person's plan, coordination of service programs, information collection and dissemination, and measurement of progress toward objectives contained in the person's plan.

The regional center shall assign a program coordinator who will be responsible for implementing, overseeing, and monitoring each individual program plan. The program coordinator may be an employee of the regional center or may be a qualified individual or employee of an agency with whom the regional center has contracted to provide program coordination.

At such times as the individual program plan is reviewed, but at least annually, the performance of the program coordinator shall also be reviewed by the regional center, the person with developmental disabilities, and the person's parents or legal guardian or conservator. No person shall continue to serve as a program coordinator for any

individual program plan unless there is agreement by all parties that the person should continue to serve as program coordinator.

Nothing shall prevent a person with developmental disabilities or such person's parent, legal guardian, or conservator, from being the program coordinator of the person's individual program plan, if the regional center director agrees that such an arrangement is feasible and in the best interest of the person with the developmental disabilities. If any person listed above is designated as the program coordinator, such person shall not deviate from the agreed-upon program plan and shall provide any information and reports as may be required by the regional center director.

(b) Purchase of needed services.

A regional center may purchase services for a client from any individual or agency the regional center determines will best accomplish all or any part of that client's program plan.

In making the initial choice to purchase services from an agency, facility, or individual, the regional center may use a professionally recognized, reliable, and valid instrument of accreditation. Thereafter, the regional center shall renew its contracts or purchases on the basis of a vendor's success in achieving the objectives set forth in the individual program plan.

No purchase of service contract with any agency or individual shall be continued unless the regional center and the person with developmental disabilities, or when appropriate, the person's parents or legal guardian or conservator agree that reasonable progress has been made towards the objectives for which the service provider is responsible.

Regional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing such services.

A regional center may purchase required out-of-home care for developmentally disabled persons. In considering appropriate placement alternatives for developmentally disabled children, approval by the child's parent, guardian, or conservator shall be obtained before placement is made.

Each developmentally disabled person placed by the regional center in an out-of-home residential facility shall have the rights specified in this division. These rights shall be brought to the person's attention by such means as the Director of Health may designate by regulation.

(c) Advocacy for, and protection of, the civil, legal, and service rights of developmentally disabled persons as established in this division.

Whenever the advocacy efforts of a regional center to secure or protect the legal, civil, or service rights of any of its clients prove ineffective, the regional center or the person with developmental disabilities or their parents, legal guardian, or other representative may request the area board to initiate action under the provisions

defining area board advocacy functions established in this division.

(d) Community organization and program development, including liaison activities with existing service agencies, identification of services needed but unavailable, identification of ineffective services and services of poor quality, identification of programs which may not be in compliance with local, state, and federal statutes and approved regulations.

In order to expand the availability of needed services of good quality, a regional center may take any of the following actions:

(1) Provide information to the area board to assist the area board in determining recommended priorities for program development for inclusion in the state plan.

(2) Request the department to allocate funds from the Developmental Disabilities Program Development Fund to initiate a new program.

(3) Notify the appropriate licensing authority or request the area board to investigate and act upon any agency's possible noncompliance with local, state, or federal laws or regulations.

(4) Provide or secure consultation, training, or technical assistance services for any agency to assist such agency in upgrading the quality of its program. Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain such services for its clients.

38217. Regional centers shall cooperate with area boards in joint efforts to inform the public of services available to persons with developmental disabilities and of their unmet needs, provide materials and education programs to community groups and agencies with interest in, or responsibility for, persons with developmental disabilities, and develop resource materials, if necessary, containing information about local agencies, facilities, and service providers offering services to persons with developmental disabilities.

38218. Regional centers shall be responsible for developing an annual plan and program budget to be submitted to the director no later than September 1 of each fiscal year. An information copy shall be submitted to the area board and state council by the same date.

38219. It is the intent of the Legislature to encourage regional centers to find innovative and economical methods of achieving the objectives contained in individual program plans of persons with developmental disabilities.

To the extent feasible, within the limitations of state law and available funds, the State Department of Health shall encourage and assist regional centers to use innovative programs, techniques, and staffing arrangements to carry out their responsibilities.

38220. A regional center shall investigate every appropriate and economically feasible alternative for care of a developmentally disabled person available within the region. If suitable care cannot be found within the region, services may be obtained outside of the region.

38221. Except for those developmentally disabled persons judicially committed to state hospitals, no developmentally disabled person shall be admitted to a state hospital except upon the referral of a regional center. Upon discharge from a state hospital, a developmentally disabled person shall be referred to an appropriate regional center.

38222. Before any person is examined by a regional center pursuant to Section 1370.1 of the Penal Code, the court ordering such medical examination shall transmit to the regional center a copy of the orders made pursuant to proceedings conducted under Sections 1368 and 1369 of the Penal Code. The purpose of the mental examination shall be to determine if developmental disability is the primary diagnosis.

38223. The director of a regional center or his designee may give consent to medical, dental, and surgical treatment of a regional center client and provide for such treatment to be given to the person under the following conditions:

(a) If the developmentally disabled person's parent, guardian, or conservator legally authorized to consent to such treatment does not respond within a reasonable time to the request of the director or his designee for the granting or denying of consent for such treatment, the director of a regional center or his designee may consent on behalf of the developmentally disabled person to such treatment and provide for such treatment to be given to such person.

(b) If the developmentally disabled person has no parent, guardian, or conservator legally authorized to consent to medical, dental, or surgical treatment on behalf of the person, the director of the regional center or his designee may consent to such treatment on behalf of the person and provide for such treatment to be given to the person. The director of a regional center or his designee may thereupon also initiate, or cause to be initiated, proceedings for the appointment of a guardian or conservator legally authorized to consent to medical, dental, or surgical services.

(c) If the developmentally disabled person is an adult and has neither a guardian or conservator, consent to treatment may be given by someone other than the person on the person's behalf only if the developmentally disabled person is mentally incapable of giving his own consent.

SEC. 3. Sections 1 and 2 of this act shall become operative only if Assembly Bill No. 3800 to Assembly Bill No. 3803, inclusive, and Assembly Bill No. 3805 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809 become effective, and in such event, Sections 1 and 2 of this act shall become operative at the same time Assembly Bill No. 3800 to Assembly Bill No. 3803, inclusive, and Assembly Bill No. 3805 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809 become effective.

CHAPTER 1369

An act to add Chapter 6 (commencing with Section 38250) to Division 25 of the Health and Safety Code, relating to the developmentally disabled, and making an appropriation therefor.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Chapter 6 (commencing with Section 38250) is added to Division 25 of the Health and Safety Code, to read:

CHAPTER 6. DEVELOPMENT AND SUPPORT OF COMMUNITY FACILITIES AND PROGRAMS

Article 1. General

38250. The Legislature finds that there is a shortage of programs and facilities to provide a comprehensive network of habilitation services to persons with developmental disabilities throughout the state.

In order to assure the development and necessary support for a comprehensive network of programs of good quality, in every area of the state, in an orderly and economic manner, the following procedures are established.

Article 2. Planning and Developing New and Expanded Programs and Facilities

38255. On and after January 1, 1978, the state plan established in this division shall be the primary method used for determining, in an orderly way, the programs and facilities that shall be developed, expanded, terminated, or reduced. The state plan shall also state the objectives of such programs, amounts and sources of required funding, priorities for development, timing, agencies responsible for implementation, and procedures for evaluation.

38256. Prior to making an appropriation or allocating any state or federal funds for new or major expansions of programs or facilities for persons with developmental disabilities, the state plan shall be reviewed to determine if the proposed expenditure is consistent with the priorities approved in the plan.

If any expenditure of such funds for new or major expansions of programs or facilities is proposed by any agency that does not conform to the priorities approved in the state plan, the state council shall review and publicly comment on such proposed expenditure.

38257. Effective July 1, 1977, all parental fees collected by or for regional centers shall be remitted to the State Treasury to be

deposited in the Developmental Disabilities Program Development Fund, which is hereby created and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan. In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

Parental fee schedules shall be evaluated pursuant to the provisions of Section 38412 and adjusted annually by the State Department of Health, with the approval of the state council. Fees for out-of-home care shall bear an equitable relationship to the cost of such care and the ability of the family to pay.

In addition to parental contributions and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when such funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is hereby appropriated to the State Department of Health for a period of three years for the purposes of this section. In no event shall any such funds revert to the General Fund, except at the conclusion of the three-year period. Prior to the end of the three-year period, the Department of Finance shall review the utilization and effectiveness of the Program Development Fund and shall report its findings to the Legislature.

The Legislative Analyst shall review and comment on the utilization and effectiveness of the Program Development Fund in connection with the annual budget hearings.

The State Department of Health may allocate funds from the Program Development Fund for any legal purpose, provided, that such allocations are consistent with the priorities for program development in the state plan and are approved by the state council. Allocations from the Program Development Fund shall take into consideration the future fiscal impact of such allocations on other state-supported programs for developmentally disabled persons. To the extent feasible, allocation decisions shall also take into consideration distribution of funds to geographic areas proportionate to such area's contributions to the Program Development Fund.

Article 3. Rates of Payment for Community Living Facilities

38260. In order to assure the availability of a continuum of community living facilities of good quality for persons with developmental disabilities, the State Department of Health shall establish and maintain an equitable system of payment to providers of such services. The system of payment shall include provision for the special needs of persons with developmental disabilities.

38261. By July 1, 1977, and each year thereafter, the State Department of Health shall establish rates, which shall be reviewed by the state council. Such rates shall annually be presented to the

Legislature and shall be operative on July 1 of each year, subject to the appropriation of sufficient funds for such purpose in the Budget Act. In establishing rates to be paid for out-of-home care, the State Department of Health shall consider and, when appropriate, include each of the cost elements in this section as follows:

(a) Rates established for all facilities shall include an adequate amount to care for "basic living needs" of a person with developmental disabilities. "Basic living needs" are defined to include housing (shelter, utilities, and furnishings), food, clothing, and personal care. The amount required for basic living needs shall be calculated each year as the average cost of an additional normal child, between the age of 12–17, living at home. The amount for basic living needs shall be adjusted depending on the size of the out-of-home facility. These amounts shall be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the State Department of Health, using the best available estimating methods.

(b) Rates established for all facilities that provide direct supervision for persons with developmental disabilities shall include an amount for "direct supervision." The cost of "direct supervision" shall reflect the ability of the persons in the facility to function with minimal, moderate, or intensive supervision. Minimal supervision means that a developmentally disabled person needs the assistance of other persons with certain daily activities. Moderate supervision means that a developmentally disabled person needs the assistance of other persons with daily activities most of the time. Intensive supervision means that all the personal and physical needs of a developmentally disabled person are provided by other persons. The cost of "direct supervision" is calculated as the wage costs of care-giving staff depending on the needs of the person with developmental disabilities. These amounts shall be adjusted annually to reflect wage changes and shall comply with all federal regulations for hospitals and residential-care establishments under provisions of the Fair Labor Standards Act.

(c) Rates established for all facilities that provide "special services" for persons with developmental disabilities shall include an amount to pay for such "special services" for each person receiving special services. "Special services" include medical and dental care and therapeutic, educational, training, or other services required in the individual program plan of each person. Facilities shall be paid for providing special services for each individual to the extent that such services are specified in the person's individual program plan and the facility is designated provider of such special services. Rates of payment for special services shall be the same as prevailing rates paid for similar services in the area.

(d) To the extent applicable, rates established for facilities shall include a reasonable amount for "unallocated services." Such costs shall be determined using generally accepted accounting principles. "Unallocated services" means the indirect costs of managing a

facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, and general and administrative support. If a facility serves other persons in addition to developmentally disabled persons, unallocated services expenses shall be reimbursed under the provision of this section, only for the proportion of the costs associated with the care of developmentally disabled persons.

(e) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of "mandated capital improvements and equipment" as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required such remodeling or equipment as a condition for the use of the facility as a provider of out-of-home care to persons with developmental disabilities.

(f) When applicable, rates established for proprietary facilities shall include a reasonable "proprietary fee."

38262. Under no circumstances shall the rate of state payment to any provider of out-of-home care exceed the average amount charged to private clients residing in the same facility, nor shall the monthly rate of state payment to any such facility, with the exception of a licensed acute care or emergency hospital, exceed the average monthly cost of services for all persons with developmental disabilities who reside in state hospitals.

38263. It is the intent of the Legislature that rates of payment for out-of-home care shall be established in such ways as to assure the maximum utilization of all federal and other sources of funding, to which persons with developmental disabilities are legally entitled, prior to the commitment of state funds for such purposes.

Article 4. Supportive Services for Persons Living at Home

38275. The Legislature places a high priority on providing opportunities for children with developmental disabilities to live with their families, when living at home is the preferred objective in the child's individual program. In order to provide opportunities for children to live with their families, the following procedures shall be adopted:

(a) The state plan shall give a very high priority to the development and expansion of programs designed to assist families in caring for their children at home. Such assistance may include, but is not limited to: specialized medical and dental care, special training for parents, infant stimulation programs, respite for parents, homemaker services, camping, day care, short-term out-of-home care, babysitting, counseling, mental health services, behavior modification programs, special equipment such as wheelchairs, hospital beds, and other necessary appliances, and advocacy to assist persons in securing income maintenance and other benefits to which

they are entitled.

(b) In developing individual program plans for children, regional centers shall consider every possible way to assist families in maintaining their children at home, when living at home will be in the best interest of the child, before considering out-of-home placement alternatives.

The state department shall conduct an annual review of the percentage of children in out-of-home placements, relative to caseload, in each regional center, and shall investigate any possible excessive out-of-home placements in any regional center. If the State Department of Health determines that a regional center has failed to emphasize assistance to families to care for their children at home, the department shall assist the regional center to develop a more appropriate program and shall establish specific home care objectives for the regional center to meet in its contract with the state.

(c) If the parent of any child receiving services from a regional center believes that the regional center is not offering adequate assistance to enable the family to keep the child at home, such parent may initiate request for fair hearing as established in this division.

(d) Nothing in this section shall be construed to encourage the continued residency of adult children in the home of their parents when such residency is not in the best interests of the person.

Article 5. Regional Center Rates for Nonresidential Services

38276. The Director of Health shall establish rates of state payment for nonresidential services purchased by regional centers. An equitable system of rates shall be developed, maintained, and revised as necessary under this chapter in order to assure that regional centers may secure high-quality services for developmentally disabled persons. In developing such rates, the Director of Health shall take into account the rates paid by other agencies and jurisdictions in order to assure that regional center rates are at competitive levels. In no event shall rates established pursuant to this article be any less than those established for comparable services under the State Medi-Cal Program.

SEC. 2. The sum of one hundred sixty-five thousand dollars ($165,000) is hereby appropriated from the General Fund to the State Department of Health for expenditure for a demonstration project to purchase workshop services for current and potential recipients of aid to needy disabled and for related administrative and evaluation costs. The appropriation provided in this section shall be in addition to any other appropriation for such purposes and shall be used to provide workshop services to a larger number of current and potential recipients of aid to the needy disabled.

The funds appropriated by this section shall be utilized to obtain federal funds under any federal program which requires a state contribution in order to receive federal funds.

Upon enactment of this section, the State Department of Health shall take whatever action is necessary to cause the funds appropriated by Chapter 1440 of the Statutes of 1972, which have been encumbered by the courts, to revert to the General Fund.

SEC. 3. Sections 1 and 2 of this act shall become operative only if Assembly Bill No. 3800 to Assembly Bill No. 3804, inclusive, and Assembly Bill No. 3806, Assembly Bill No. 3807, and Assembly Bill No. 3809 become effective, and in such event, Section 1 of this act shall become operative at the same time Assembly Bill No. 3800 to Assembly Bill No. 3804, inclusive, and Assembly Bill No. 3806, Assembly Bill No. 3807, and Assembly Bill No. 3809 become effective.

CHAPTER 1370

An act to add Chapter 7 (commencing with Section 38300) to Division 25 of the Health and Safety Code, relating to the developmentally disabled.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Chapter 7 (commencing with Section 38300) is added to Division 25 of the Health and Safety Code, to read:

CHAPTER 7. APPEALS PROCEDURES

Article 1. Service Agency Fair Hearing Procedure

38300. On and after July 1, 1977, every public or private agency that receives state funds to provide services for persons with developmental disabilities shall, as a condition of continued receipt of such funds, have an agency fair hearing procedure for resolving conflicts between the agency and consumers or potential consumers of service.

Any agency that employs a fair hearing procedure mandated by any other statute shall be considered to have an approved procedure for purposes of this chapter.

The service agency's fair hearing procedure shall be stated in writing, in English and such other language as may be appropriate to the needs of the consumers of the agency's service. All consumers currently receiving services as persons with developmental disabilities or their legally responsible relatives, guardians, or anyone having legal custody of a developmentally disabled person, and all such persons formally applying for service shall be informed verbally of, and shall be notified in writing in a language which they comprehend of, the agency's fair hearing procedure. A copy of the

procedure and a copy of the provisions of this chapter shall be prominently displayed on the premises of the agency.

38301. The service agency's fair hearing procedure shall meet the following minimum requirements:

(a) Any person with developmental disabilities, or who is believed to have a developmental disability, or the parent, legal guardian, anyone having legal custody, or other representative acting on behalf of such person shall have the opportunity to request a fair hearing to contest the decision of any agency which he believes to be illegal, unjust, discriminatory, or not in the best interest of the person with developmental disabilities. The request for a fair hearing shall be stated in writing on an appeal for fair hearing form to be provided by the agency.

If any person makes a verbal request for a fair hearing, the employee of the agency who hears the request shall provide the person with an appeal for fair hearing form and shall assist the person in filling out such form if the person requires or requests assistance. Any employee who willfully fails to comply with this requirement shall be guilty of a misdemeanor.

(b) The agency's procedures for responding to a request for a fair hearing shall be informal and shall result in a written decision by the agency within 30 days from the date of submission of the request for fair hearing form.

(c) Requests for a fair hearing shall be directed to the director of the agency. Upon receipt by the agency director, or his designated representative, of a request for a fair hearing submitted by a person with developmental disabilities, his parent, guardian, conservator, or other representative, the agency director, or his designated representative, shall within 10 days of receipt of such request:

(1) Meet with the person requesting the fair hearing in an attempt to settle the grievance. Such person shall have the right to examine any documents contained in the developmentally disabled person's agency file, provided that the written consent of the person with developmental disabilities must be secured therefor in the case of a developmentally disabled adult who is not under guardianship or conservatorship.

(2) If it is determined that the grievance has merit, the agency director may rule in favor of the person who requested the fair hearing.

(3) If the agency director fails to resolve the grievance to the satisfaction of the person who requested the fair hearing, the agency director shall commence the fair hearing procedure.

(d) The person with developmental disabilities and the parent, guardian, or conservator of such person shall be given written notice in a language which they comprehend of all fair hearing and review proceedings that the agency may conduct; shall be permitted to attend and participate in all such proceedings; and shall be permitted to have with them any representative they may wish to have assist them in presenting their grievance. Fair hearing proceedings shall

03806 28 12 350 339

be conducted at such times and places as to permit the participation of the person who requested the review.

The person who makes the appeal and his representative shall have access to any records in possession of the agency which may have a bearing on the issues being contested.

Article 2. Appeals Board Hearings

38305. Any person who has made a request for a service agency fair hearing may, within 30 days following the date of receipt of the written decision of the service agency, notify in writing the director, or the governing board of the agency, that he does not accept the decision of the service agency and that an appeals board hearing of the decision is requested.

The appeals board hearing shall take place within 30 days following the agency's receipt of such written notification. Both parties shall agree to a convenient time and place for such hearing in the county of residence of the person requesting the hearing.

The appeals board shall be composed of three persons, one selected by the agency's governing board, one selected by the person or persons requesting the hearing, and the third selected by mutual agreement of the two persons selected by the agency's governing board and the person or persons requesting the hearing. If agreement cannot be achieved in selecting the third member of the appeals board at least 15 days prior to the date set for the hearing, the area board shall, within 15 days, select the third member and the appeals board hearing shall commence within 15 days following such selection.

38306. The chairman of the appeals board shall be selected by its members.

38307. The hearing shall be conducted in an informal manner. Each party, and their representatives, shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Irrelevant and unduly repetitious evidence may be excluded.

The hearing shall be conducted in the English language. However, if any of the parties does not comprehend English, then an interpreter shall be provided by the parties who shall be approved by the chairman of the appeals board as being proficient in the English language and the language in which the witness will testify.

A stenographic record shall be kept or a recording made of the proceedings before the appeals board.

Any cost of interpreter and stenographic services shall be paid by the agency.

03806 28 12 360 341

38308. Within 15 days after submission of all evidence and argument before the appeals board, the board shall render a written decision based upon a majority vote of its members. Both parties shall act upon such decision unless either party appeals the board's determination to the responsible state agency.

38309. The appeals board's written decision shall be in ordinary and concise language. If any of the parties cannot comprehend English, then the written decision shall be translated into a language which such party can comprehend. The decision shall contain findings of fact, a determination of the issues presented, and the reason for the decision. The decision shall become effective within 30 days. The notice of the decision shall state that either party has a right of appeal to the responsible state agency.

38310. Appeals board hearings shall be open to the public except when personnel matters are being reviewed.

Article 3. State Agency Review and Hearing

38315. If either party disagrees with the decision of the appeals board, he or she may request, in writing, the director of the state agency or department (hereinafter called the "responsible state agency") primarily responsible for operating, funding, or monitoring the program subject to the appeal, to review the decision within 30 days following notification of such decision.

The director of the responsible state agency or his designee shall review the records of the appeals board hearing and may request additional information from either party.

38316. If the director of the responsible state agency decides not to hear the appeal, the decision of the appeals board shall be final.

If the director of the responsible state agency decides to hear the appeal, the decision of the appeals board shall be held in abeyance until the director renders a final decision. If the director of the responsible state agency decides to hear the appeal, he shall render a decision within 30 days from the time that the request for a state agency hearing was received. If the director of the state agency fails to render a decision within 30 days, such failure shall constitute a waiver of the responsible state agency's right to hear the case and the decision of the appeals board shall be final.

If the responsible state agency conducts a hearing, the hearing shall be conducted according to the same procedures as required for appeals board hearings.

The decision of the responsible state agency shall be the final administrative determination and both parties shall be bound thereby.

38317. Nothing in this division shall presume the incompetence of any person with a developmental disability to participate in any of the appeals procedures established herein.

38318. If in the opinion of any person, the rights or best interests

of any individual with developmental disabilities may not be properly protected or advocated in any appeals procedure, the area board shall be notified and the area board may appoint a personal advocate to represent the individual with the developmental disability in such appeals procedures.

Article 4. Right to Representation

38325. At any stage in the appeals procedure, the person with developmental disabilities or the parents or legal guardian of such person shall have the right to be represented, at their own expense, by the person or persons of their choice including, but not limited to, private legal counsel, legal aid societies, or citizen advocacy organizations.

SEC. 2. Section 1 of this act shall become operative only if Assembly Bill No. 3800 to Assembly Bill No. 3805, inclusive, Assembly Bill No. 3807, and Assembly Bill No. 3809, Section 1 of this act shall become operative at the same time Assembly Bill No. 3800 to Assembly Bill No. 3805, inclusive, Assembly Bill No. 3807, and Assembly Bill No. 3809, become effective.

CHAPTER 1371

An act to add Chapter 8 (commencing with Section 38350) to, and to repeal Chapter 7 (commencing with Section 38300) of, Division 25 of the Health and Safety Code, relating to the developmentally disabled.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976]

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

SECTION 1. Chapter 7 (commencing with Section 38300) of Division 25 of the Health and Safety Code, as added by Chapter 1594 of the Statutes of 1969, is repealed.

SEC. 2. Chapter 8 (commencing with Section 38350) is added to Division 25 of the Health and Safety Code, to read:

CHAPTER 8. EVALUATION

38350. The Legislature intends that expenditures on state programs for the developmentally disabled shall have measurable and desirable results. Such results shall reflect the degree to which developmentally disabled persons are leading more independent, productive, and normal lives.

38351. The State Department of Health shall perform all of the following tasks to provide the Legislature with information to

0 3807 28 12 395 348

determine the extent to which programs under its jurisdiction are obtaining desirable results:

(a) The State Department of Health shall propose to the Legislature by July 1, 1977, a method for determining that developmentally disabled persons throughout the state are, as a result of services provided pursuant to this division, leading more independent, productive, and normal lives. The proposed method shall measure changes, including, but not limited, to changes in:

(1) The amount of supervision required and the restrictiveness of living situations.

(2) The productivity of adults involved in vocational, prevocational, or work training programs.

(3) The relative normality of training or education experiences, including hours of attendance and participation in activities with nondisabled persons.

(b) The proposed method shall apply to developmentally disabled persons living in state hospitals and in the community.

(c) The proposed method shall have the capability of measuring progress or lack of progress for adults and for children, regardless of the degree of their handicaps.

(d) The proposed method shall be approved by the state council prior to its submission to the Legislature.

(e) The proposed method shall include scales for measuring changes in individual clients as defined in subdivision (a), and examples of the format to be used in reporting evaluation results to the Legislature. The proposed method shall be reviewed and commented upon by the appropriate committees of Legislature within 30 days. After such 30 days the Department of Health shall field test the proposed method and report its findings to the Legislature by February 1, 1978.

38352. The department shall prepare by July 1, 1978, a plan for using the method to obtain and report statewide information on program effectiveness.

The plan shall include:

(a) A description of any sampling procedures to be used.

(b) Methods for obtaining and analyzing information about the type and amount of service provided to obtain program results.

(c) Methods for determining the state expenditures associated with varying levels of measured program effectiveness.

(d) Specification of procedures and format for future reports to the Legislature on program costs and effectiveness.

(e) The projected costs of implementation.

38352.5. By January 1, 1979, the Department of Health shall implement the evaluation system for all programs under its jurisdiction.

38353. Nothing in this chapter shall be construed to prohibit any agency providing services to persons with developmental disabilities from utilizing additional evaluation mechanisms for the agency's own program purposes.

SEC. 3. Sections 1 and 2 of this act shall become operative only if Assembly Bill No. 3800 to Assembly Bill No. 3806, inclusive, and Assembly Bill No. 3809, become effective, and in such event, Sections 1 and 2 of this act shall become operative at the same time Assembly Bill No. 3800 to Assembly Bill No. 3806, inclusive, and Assembly Bill No. 3809 become effective.

CHAPTER 1372

An act to add Chapter 9 (commencing with Section 38400) to, and to repeal Chapter 6 (commencing with Section 38250) of, Division 25 of the Health and Safety Code, relating to the developmentally disabled.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Chapter 6 (commencing with Section 38250) of Division 25 of the Health and Safety Code, as added by Chapter 1594 of the Statutes of 1969, is repealed.

SEC. 2. Chapter 9 (commencing with Section 38400) is added to Division 25 of the Health and Safety Code, to read:

CHAPTER 9. BUDGETARY PROCESS AND FINANCIAL PROVISIONS

38400. The Legislature finds that the method of appropriating funds for numerous programs for the developmentally disabled affects the availability and distribution of services and must be related to statewide planning. Therefore, the process for determining levels of funding of programs must involve consideration of the state plan established pursuant to Chapter 3 (commencing with Section 38100) and the participation of citizens who may be directly affected by funding decisions.

38401. On or before September 1 of each year, each regional center shall submit to the state department and the state council a program budget plan for the subsequent budget year. The budget plan shall include all of the following:

(a) An estimate of all developmentally disabled persons to be served by the regional center.

(b) An estimate of services to be provided by the regional center.

(c) An estimate of cost, by type of service.

(d) Estimated sources and amounts of all revenue, including funds which are not administered by regional centers.

(e) A detailed report of the resources required to implement Section 38009.

38402. On or before September 1 of each year, the

Superintendent of Public Instruction shall submit to the state council:

(a) An estimate of all developmentally disabled persons to be served throughout the state.

(b) Estimated total cost, by service or educational category.

(c) Estimated sources of revenue.

38403. To the extent feasible, all funds appropriated for developmental disabilities programs under this division shall be allocated to such programs by August 1 of each year. Any funds not allocated by that date shall be reported to the Legislature together with specific reasons for the nonallocation of such funds. Within 30 days after enactment, all departments administering programs providing services to the developmentally disabled shall submit to the Joint Legislative Budget Committee, the fiscal committees of both houses, and the state council a reconciliation of allocated funds with the appropriate budget item.

38404. On or before January 1 of each year, the State Department of Health shall submit a report to the state council, which shall be given with the council's comments and recommendations in a report to the Joint Legislative Budget Committee and the fiscal committees of both houses which provides actual and estimated expenditures for programs for the developmentally disabled during the first six months of the fiscal year and an estimate of total year-end expenditures.

If year-end expenditures are estimated to be less than the amount appropriated, the report shall indicate alternative program uses for the estimated savings that are consistent with the priorities in the state plan.

If year-end expenditures are estimated to be more than the amount appropriated, the report shall indicate anticipated actions that will be taken to secure additional funds or reduce expenditures.

38405. When appropriated by the Legislature, the State Department of Health may receive, and the Department of Benefit Payments may expend, all funds made available by the federal government, the state, its political subdivisions, and other sources, and, within the limitation of the funds made available, shall act as an agent for the transmittal of such funds for services through the regional centers. The Department of Benefit Payments may use any funds received under Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 for the purposes of this division.

38406. The Department of Benefit Payments succeeds to, and is vested with, the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Health and the Secretary of the Health and Welfare Agency with respect to the processing, audit, and payment of funds made available under this chapter. Moneys, funds, and appropriations available to the State Department of Health for the purposes of this section shall be made available to the Department of Benefit Payments by the Director of Health for the purposes of this section after such moneys, funds, and

appropriations have been appropriated to or received by the Department of Health.

38407. The Department of Benefit Payments shall have the possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Health in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are succeeded to, and vested in, the Department of Benefit Payments.

38408. The State Department of Health may accept and expend grants, gifts, and legacies of money and, with the consent of the Department of Finance, may accept, manage, and expend grants, gifts and legacies of other property, in furtherance of the purposes of this division.

The secretary may enter into agreements with any person, agency, corporation, foundation, or other legal entity to carry out the purposes of this division.

38409. Parents of children under the age of 18 who are receiving services purchased by the regional center may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the cost of caring for a normal child at home, as determined by the director. Parental contributions shall be made only to the regional center and the method of determination of the amount of the contribution shall be the same, whether the child is placed in the state hospital or in a public or private community facility. In no event, however, shall parents be charged for diagnosis or counseling services received through the regional centers.

38410. Parents of children under the age of 18 who are patients in a state hospital or on leave from a state hospital, and who were admitted to the state hospital prior to July 1, 1971, may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the cost of caring for a normal child at home, as determined by the director. Parental contributions shall be made only to the regional center from which the child would have been referred had he been admitted to the state hospital after July 1, 1971, and the method of determination of the amount of the contribution shall be the same as that provided in Section 38409.

38411. The Director of Health shall establish and annually review a schedule for parental fees for services received through the regional centers.

In establishing the amount parents will contribute, the director shall take into account such factors as:

(a) Medical expenses incurred prior to regional center care;

(b) Whether the child is living at home;

(c) Parental contributions for medical expenses, clothing, incidentals, and other items considered necessary to the normal rearing of a child; and

(d) Transportation expenses incurred in visiting a child placed in a facility outside the region.

All parental contributions shall be deposited in the Developmental

Disabilities Program Development Fund established in Chapter 6 (commencing with Section 38250) to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan.

38412. The State Department of Health shall conduct a study of the parental fee schedules established pursuant to this division and shall recommend changes to the Legislature by July 1, 1977. Such review shall include:

(a) The basic premises upon which the fee schedule is based.

(b) The equity of fees required in relation to family income.

(c) The relationship of parental fees charged under this division with respect to fees charged under other state and federal programs for developmentally disabled persons.

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 there are no new duties, obligations or responsibilities imposed on local government by this act.

SEC. 4. Sections 1 to 3, inclusive, of this act shall become operative only if Assembly Bill No. 3800 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809, become effective, and in such event, Sections 1 to 3, inclusive, of this act shall become operative at the same time as Assembly Bill No. 3800 to Assembly Bill No. 3807, inclusive, and Assembly Bill No. 3809, become effective.

CHAPTER 1373

An act to amend and renumber the headings of Chapter 3.5 (commencing with Section 38120) and Chapter 4 (commencing with Section 38150) of Division 25 of, and to amend and renumber Sections 38120, 38121, 38122, 38123, 38124, and 38150 of, the Health and Safety Code, relating to developmental disabilities.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. The heading of Chapter 3.5 (commencing with Section 38120) of Division 25 of the Health and Safety Code is amended and renumbered to read:

CHAPTER 10. JUDICIAL REVIEW

SEC. 2. Section 38120 of the Health and Safety Code is amended and renumbered to read:

38450. Every adult who is or has been admitted or committed to a state hospital, community care facility as defined in Section 1504,

or health facility as defined in Section 1250, as a developmentally disabled patient shall have a right to a hearing by writ of habeas corpus for his release from the hospital, community care facility or health facility after he or any person acting on his behalf makes a request for release to any member of the staff of the state hospital, community care facility or health facility or to any employee of a regional center.

The member of the staff or regional center employee to whom a request for release is made shall promptly provide the person making the request for his signature or mark a copy of the form set forth below. The member of the staff, or regional center employee, as the case may be, shall fill in his own name and the date, and, if the person signs by mark, shall fill in the person's name, and shall then deliver the completed copy to the medical director of the state hospital, the administrator or director of the community care facility or the administrator or director of the health facility, as the case may be, or his designee, notifying him of the request. As soon as possible, the person notified shall inform the superior court for the county in which the state hospital, community care facility, or health facility is located of the request for release and shall transmit a copy of the request for release to the person's parent, guardian, or conservator together with a statement that notice of judicial proceedings taken pursuant to such request will be forwarded by the court. The copy of the request for release and such notice shall be sent by the person notified by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return receipt requested. The person notified shall also transmit a copy of the request for release and the name and address of the person's parent, guardian, or conservator to the court.

Any person who intentionally violates this section is guilty of a misdemeanor.

The form for a request for release shall be substantially as follows:

(Name of the state hospital, community care facility, or health facility or regional center) _____ day of _____ 19____

I, _____ (member of the staff of the state hospital, community care facility, or health facility or employee of the regional center), have today received a request for the release from _____ (name of state hospital) State Hospital, community care facility, or health facility of _____ (name of patient) from the undersigned patient on his own behalf or from the undersigned person on behalf of the patient.

_____

Signature or mark of patient making request for release

_____

Signature or mark of person making request on behalf of patient

SEC. 3. Section 38121 of the Health and Safety Code is amended and renumbered to read:

38451. Judicial review shall be in the superior court for the county in which the state hospital, community care facility, or health facility is located. The adult requesting to be released shall be informed of his right to counsel by a member of the staff of the state hospital, community care facility, or health facility and by the court; and if he does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to assist him in preparation of a petition for the writ of habeas corpus and to represent him in the proceedings. The person shall pay the costs of such legal service if he is able.

At the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of any evidentiary hearing in the matter, to the parent, guardian, or conservator of the person seeking release or for whom release is sought and to the director of the appropriate regional center. Such notice shall be sent by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return receipt requested.

The court shall either release the adult or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice to the adult's parent, guardian, or conservator and to the director of the appropriate regional center are deposited in the United States mail pursuant to this section. If the court finds (a) that the adult requesting release or for whom release is requested is not developmentally disabled, or (b) that he is developmentally disabled and that he is able to provide safely for his basic personal needs for food, shelter, and clothing, he shall be immediately released. If the court finds that he is developmentally disabled and that he is unable to provide safely for his basic personal needs for food, shelter, or clothing, but that a responsible person or a regional center or other public or private agency is willing and able to provide therefor, the court shall release the developmentally disabled adult to such responsible person or regional center or other public or private agency, as the case may be, subject to any conditions which the court deems proper for the welfare of the developmentally disabled adult and which are consistent with the purposes of this division.

If in any proceeding under this section, the court finds that the adult is developmentally disabled and has no parent, guardian, or conservator, and is in need of a guardian or conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a guardian or conservator for the developmentally disabled adult.

SEC. 4. Section 38122 of the Health and Safety Code is amended and renumbered to read:

38452. This chapter shall not be construed to impair the right of

a guardian or conservator of an adult developmentally disabled patient to remove the patient from the state hospital at any time pursuant to Section 38500.

SEC. 5. Section 38123 of the Health and Safety Code is amended and renumbered to read:

38453. If a regional center recommends that an adult be admitted to a state hospital as a developmentally disabled patient or to a community care facility or health facility as a developmentally disabled resident, the employee or designee of the regional center responsible for making such recommendations shall certify in writing that neither the person recommended for admission to the state hospital, community care facility, or health facility, nor any other person on behalf of the person so recommended for admission has made objection to such admission to the person making such recommendation. The regional center shall transmit such certificate, or a copy thereof, to the state hospital, community care facility, or health facility.

A state hospital, community care facility, or health facility, shall not admit any adult as a developmentally disabled patient on recommendation of a regional center unless a copy of such certificate has been transmitted pursuant to this section.

Any person who, knowing that objection to state hospital, community care facility, or health facility, admission has been made, certifies that no objection has been made, shall be guilty of a misdemeanor.

SEC. 6. Section 38124 of the Health and Safety Code is amended and renumbered to read:

38454. Whenever a proceeding is held in a superior court under the provisions of this chapter, involving a person who has been placed in a state hospital located outside the county of residence of the person, the provisions of this section shall apply. The county clerk of the county in which the proceeding is held may make out a statement of all of the costs incurred by the county for the investigation, preparation, and conduct of the proceedings, and the costs of appeal, if any. The statement may be certified by a judge of the superior court of such county. The statement may then be sent to the county of residence of the person, which shall reimburse the county providing such services. If it is not possible to determine the actual county of residence of the person, the statement may be sent to the county in which the person was originally detained, which shall reimburse the county providing the services.

SEC. 7. The heading of Chapter 4 (commencing with Section 38150) of Division 25 of the Health and Safety Code is amended and renumbered to read:

CHAPTER 11. GUARDIANSHIP AND CONSERVATORSHIP

SEC. 8. Section 38150 of the Health and Safety Code is amended and renumbered to read:

38500. This chapter shall not be construed to terminate any appointment of the state department as guardian of a developmentally disabled person prior to July 1, 1971.

It is the intent of this section that the Director of Health be appointed as guardian or conservator of a developmentally disabled person as provided, pursuant to the provisions of Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1.

Notwithstanding Section 6000 of the Welfare and Institutions Code, the admission of an adult developmentally disabled person to a state hospital or private institution shall be upon the application of the person's parent or guardian or conservator in accordance with the provisions of Sections 38103 and 38453. Any person so admitted to a state hospital may leave the state hospital at any time, if such parent, guardian, or conservator gives notice of his desire for the departure of the developmentally disabled person to any member of the hospital staff and completes normal hospitalization departure procedures.

Notwithstanding the provisions of Section 38105, any adult developmentally disabled person who is competent to do so may apply for and receive any services provided by a regional center.

SEC. 9. Sections 1 to 8, inclusive, of this act shall become operative only if Assembly Bill No. 3800 to Assembly Bill No. 3808, inclusive, become effective, and in such event, Sections 1 to 8, inclusive, of this act shall become operative at the same time Assembly Bill No. 3800 to Assembly Bill No. 3808, inclusive, become effective.

CHAPTER 1374

An act to amend Section 14412 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 14412 of the Welfare and Institutions Code is amended to read:

14412. (a) The enrollment of a Medi-Cal beneficiary in the prepaid health plan shall not be terminated except for loss of eligibility or for good cause, as determined by the department.

(b) Enrollment may be terminated at the request of the Medi-Cal

beneficiary subject to approval by the department. Approval shall be mandatory under the following circumstances:

(1) The beneficiary was enrolled in violation of this article or regulations promulgated by the department pursuant to this article.

(2) The end of one-year period of the contract of enrollment.

(3) Request for disenrollment pursuant to subdivision (d) of Section 14460.

(c) Any Medi-Cal beneficiary enrolled in a prepaid health plan who would remain eligible for Medi-Cal Program benefits for four additional months pursuant to Section 14005.8 shall remain enrolled in the prepaid health plan and shall not receive a Medi-Cal card.

(d) It is the intent of the Legislature that the department shall develop such policies and procedures to maximize continuity of care for persons enrolled in prepaid health plans and to insure that the eligibility determination or redetermination process does not unnecessarily interfere with such enrollment or create gaps in the delivery of health services.

SEC. 2. 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:

Eligibility redetermination procedures and administrative inflexibility have caused many enrollees in prepaid health plans to involuntarily lose their enrollment status but remain eligible without liability for Medi-Cal Program benefits. Such enrollment instability has hindered continuity of care and has caused many prepaid health plans to allocate considerable funds from health care services to maintain enrollment stability. It is essential and urgent that continuity of care be restored and that funds now spent to offset enrollment instability be reallocated to providing health care services.

CHAPTER 1375

An act to add Sections 25132 and 25403.5 to the Public Resources Code, and to amend Section 739 of the Public Utilities Code, relating to energy resources.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 25132 is added to the Public Resources Code, to read:

25132. "Load management" means any utility program or activity that is intended to reshape deliberately a utility's load duration curve.

SEC. 2. Section 25403.5 is added to the Public Resources Code, to read:

25403.5. The commission shall, by July 1, 1978, adopt standards by regulation for a program of electrical load management for each utility service area. In adopting the standards, the commission shall consider, but need not be limited to, the following load management techniques:

(1) Adjustments in rate structure to encourage use of electrical energy at off-peak hours or to encourage control of daily electrical load. Compliance with such changes in rate structure shall be subject to the approval of the Public Utilities Commission in a proceeding to change rates or service.

(2) End use storage systems which store energy during off-peak periods for use during peak periods.

(3) Mechanical and automatic devices and systems for the control of daily and seasonal peakloads.

The standards shall be cost effective when compared with the costs for new electrical capacity, and the commission shall find them to be technologically feasible. Any expense or any capital investment required of a utility by the standards shall be an allowable expense or an allowable item in the utility rate base and shall be treated by the Public Utilities Commission as such in a rate proceeding.

The commission may determine that one or more of such techniques are infeasible and may delay their adoption. If the commission determines that any techniques are infeasible to implement, it shall make a finding in each instance stating the grounds upon which the determination was made and the actions it intends to take to remove the impediments to implementation. The commission's findings shall be published and forwarded to the Governor and the Legislature.

The commission may also grant, upon application by a utility, an exemption from the standards or a delay in implementation. The grant of an exemption or delay shall be accompanied by a statement of findings by the commission indicating the grounds for the exemption or delay. Exemption or delay shall be granted only upon a showing of extreme hardship, technological infeasibility, lack of cost effectiveness, or reduced system reliability and efficiency.

No site or related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500) of this division, unless the applicant certifies to the satisfaction of the commission that the load management standards adopted by the commission have been complied with; or, with respect to a publicly owned utility, that the governing body thereof has found such standards, or a portion thereof, unsuitable and has reported such finding and the reasons therefor to the Legislature.

This section does not apply to proposed sites and related facilities for which a notice of intent or an application requesting certification has been filed with the commission prior to the effective date of the standards.

04195 28 12615 392

SEC. 3. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for the following end uses: space and water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic differences, by differences in severity of climate, and by season.

(b) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing a lifeline rate. The lifeline rate shall be not greater than the rates in effect on January 1, 1976. The commission shall authorize no increase in the lifeline rate until the average system rate in cents per kilowatt-hour or cents per therm increased 25% or more over the January 1, 1976, level.

(c) Nothing shall preclude the commission from reducing any rate established pursuant to subdivision (a) either specifically or pursuant to any general restructuring of all electrical or gas rates, charges, and classifications.

(d) As used in this section, the term "residential" means domestic human needs end use and excludes industrial, commercial, and every other category of end use other than wholesale.

(e) Wholesale electrical or gas purchases and the rates charged therefor shall be exempt from the provisions of this section.

(f) Nothing contained in this section shall be construed to prohibit experimentation with alternative electrical rate schedules for the purpose of achieving energy conservation.

CHAPTER 1376

An act to amend Section 235 of the Civil Code, and to amend Section 2625 of the Penal Code, relating to termination of parental custody and control.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 235 of the Civil Code is amended to read:

235. (a) The father or mother of such minor person, if his or her place of residence is known to the petitioner, or, if the place of residence of such father or mother is not known to the petitioner, then the grandparents and adult brothers, sisters, uncles, aunts, and

first cousins of such minor person, if there are any and if their residences and relationships to such person are known to the petitioner, shall be notified of the proceedings by service of a citation advising such person or persons that they may appear at the time and place stated in such citation. The notice shall also advise the person or persons of the rights and procedures set forth in Section 237.5. Such citation shall be served in the manner provided by law for the service of a summons in a civil action, other than by publication. If the petition is filed for the purpose of freeing the child for placement for adoption, the citation shall so state. In all cases where one parent has relinquished his child for the purpose of adoption, or has signed a consent for adoption as provided in Sections 224m and 226, no notice as herein provided need be given to the parent who has signed such relinquishment or consent. Service of such citations shall be made at least 10 days before the time stated therein for such appearance.

(b) If the father or mother of such minor person or any person alleged to be or claiming to be the father or mother cannot, with reasonable diligence, be served as provided for in subdivision (a), or if his or her place of residence is not known to the petitioner, the petitioner or his agent or attorney shall make and file an affidavit, and shall state therein the name of the father or mother or alleged father or mother and his or her place of residence, if known to the petitioner, and the name of the father or mother or alleged father or mother whose place of residence is unknown to the petitioner. Thereupon the court shall make an order that the service be made by the publication of a citation requiring such father or mother or alleged father or mother to appear at the time and place stated therein, and that the citation be published in a newspaper to be named and designated as most likely to give notice to the father or mother or alleged father or mother to be served once a week for four successive weeks. In case of publication where the residence of a parent or alleged parent is known, the court shall also direct a copy of the citation to be forthwith served upon such parent or alleged parent by mail by deposit in the post office properly addressed and with the postage thereon fully prepaid, directed to such parent or alleged parent at his or her place of residence. When publication is ordered, service of a copy of the citation in the manner provided for in subdivision (a) is equivalent to publication and deposit in the post office. Service is complete at the expiration of the time prescribed by the order for publication or when service is made as provided for in subdivision (a), whichever event shall first occur.

If one or both of the parents of such minor person be unknown or if the name of either or both of his parents be uncertain, then such fact shall be set forth in the affidavit and the court shall order the citation to be directed to either the father or the mother, or both, of the minor person, naming and otherwise describing the minor person, and to all persons claiming to be the father or mother of the minor person.

SEC. 2. Section 2625 of the Penal Code is amended to read:

2625. In any action brought under Section 232 of the Civil Code, where such action seeks to terminate the parental rights of any prisoner or any action brought under Section 600 of the Welfare and Institutions Code, where such action seeks to adjudicate the child of a prisoner a dependent child of the court, the superior court of the county in which such action is pending, or a judge thereof, shall order notice of any court proceeding regarding such action transmitted to the prisoner.

For the purposes of this section only, the term "prisoner" includes any individual in custody in a state prison, in the California Rehabilitation Center, or a county jail, or who is a ward of the California Youth Authority.

Service of notice shall be made pursuant to Section 235 of the Civil Code or Section 660 of the Welfare and Institutions Code, as appropriate.

Upon receipt by the court of a statement from the prisoner or his attorney indicating the prisoner's desire to be present during the court's proceedings, the court shall issue an order for the temporary removal of the prisoner from such institution, and for the prisoner's production before the court. No proceeding may be held under Section 232 of the Civil Code and no petition to adjudge the child of a prisoner a dependent child of the court pursuant to subdivision (a), (b), or (d) of Section 600 of the Welfare and Institutions Code may be adjudicated without the physical presence of the prisoner or the prisoner's attorney, unless the court has before it a knowing waiver of the right of physical presence signed by the prisoner or an affidavit signed by the warden, superintendent or other person in charge of such institution, or his or her designated representative stating that the prisoner has, by express statement or action, indicated an intent not to appear at such proceeding.

In any other action in which a prisoner's parental or marital rights are subject to adjudication, an order for the prisoner's temporary removal from such institution and for the prisoner's production before the court may be made by the superior court of the county in which such action is pending, or by a judge thereof. A copy of the order shall be transmitted to the warden, superintendent, or other person in charge of such institution not less than 48 hours before the order is to be executed. The order shall be executed by the sheriff of the county in which it shall be made, whose duty it shall be to bring the prisoner before the proper court, to safely keep the prisoner and when the prisoner's presence is no longer required to return the prisoner to the institution from whence he or she was taken; the expense of executing such order shall be a proper charge against and shall be paid by, the county in which the order shall be made.

Such order shall be to the following effect:

County of _____ (as the case may be).

The people of the State of California to the warden of _____:

An order having been made this day by me, that A.B. be produced in this court as a party in the case of _____, you are commanded to deliver A.B. into the custody of _____ for the purpose of (recite purposes).

Dated this ____ day of _____, 19__.

When a prisoner is removed from such institution pursuant to this section, the prisoner shall remain in the constructive custody of the warden, superintendent, or other person in charge of such institution.

CHAPTER 1377

An act to add Section 244 to the Public Utilities Code, relating to transportation companies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 244 is added to the Public Utilities Code, to read:

244. No transit district, common carrier, or publicly owned transit system shall require any person to waive, limit, or qualify any right to recover damages for injury in exchange for such person being granted a reduction in price or fare for any service offered by the transit district, common carrier, or publicly owned transit system.

"Person," as used in this section, shall not include an employee of the transit district, common carrier, or publicly owned transit system.

SEC. 2. This act is not intended to validate or invalidate the practice whereby an employee of a transit district, common carrier, or publicly owned transit system may agree to waive, limit, or qualify benefits, privileges, or rights in exchange for the employee being granted a reduction in price or fare for services offered by the employing transit district, common carrier, or publicly owned transit system.

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:

Some senior citizens are being denied rights, privileges, and benefits in exchange for being granted a reduction in price or fare for transportation. In order to stop such practices at the earliest opportunity, it is necessary that this act go into effect immediately.

CHAPTER 1378

An act to add Section 53072 to the Government Code, relating to dogs.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 53072 is added to the Government Code, to read:

53072. Notwithstanding any other provisions of law or any local ordinance, an officer or employee of any animal control agency shall not seize or impound a dog for violation of an ordinance requiring a dog to be leashed or issue citations for violation of such ordinance when the dog has not strayed from and is upon private property owned by the dog owner or the person who has a right to control the dog, or upon private property to which the dog owner or person who has a right to control the dog has a right of possession.

A dog that has strayed from but then returned to the private property of his owner or the person who has a right to control the dog shall not be seized or impounded, but in such a case a citation may be issued; provided, however, that if in such a situation the owner or person who has a right to control the dog is not home, the dog may be impounded, but the officer or employee of any animal control agency shall post a notice of such impounding on the front door of the living unit of the owner or person who has a right to control the dog. Such notice shall state the following: that the dog has been impounded, where the dog is being held, the name, address, and telephone number of the agency or person to be contacted regarding release of the dog, and an indication of the ultimate disposition of the dog if no action to regain it is taken within a specified period of time by its owner or by the person who has a right to control the dog.

This section shall not otherwise affect existing authority to seize or impound a dog or issue citations, as a result of a dog's being on property other than that owned by its owner or the person who has a right to control the dog.

This section shall not be construed as prohibiting any person from killing a dog in the situations authorized by Sections 31102, 31104, and 31152 of the Food and Agricultural Code.

CHAPTER 1379

An act to add Section 5006.41 to the Public Resources Code and to amend and supplement the Budget Act of 1976 by augmenting and superseding subitem (i) of Item 386 and by adding Sections 2.5J and 2.8J thereto, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

I am deleting the following appropriations included in Senate Bill 1617:

I am deleting the appropriation contained in Section 6.5 in the amount of $2,500,000 for acquisition and development at El Capitan State Beach. This property is not a high priority project, has not been included in the Santa Barbara County Comprehensive Plan or the Regional Coastal Plan, problems exist with regard to the title to the water source, and its acquisition has been opposed by Santa Barbara County Supervisors and local legislators.

I am deleting the reappropriation made by Section 7 from Chapter 738, Statutes of 1973, and the appropriation made by Section 8. Since other funds are available for such aquisitions, I do not believe the General Fund should be used.

I am deleting the appropriation of $1,258,000 made by Section 9 for acquisition of Willow Creek Ranch. This area is not under threat of development and is not a high priority acquisition.

With these deletions, I approve SB 1617

EDMUND G. BROWN JR., Governor

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

SECTION 1. Section 5006.41 is added to the Public Resources Code, to read:

5006.41. The department may enter into agreements with the Department of Water Resources and the Department of Fish and Game to plan, develop, and administer real and personal property located in the vicinity of Oroville. The department shall carry out a program in such unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles. Areas for the recreational use of off-highway vehicles shall be administered pursuant to paragraph (3) of subdivision (d) of Section 5001.5.

Any fees, rentals, or other returns collected by the department in its administration of such unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund.

SEC. 2. There is hereby appropriated from moneys in the Off-Highway Vehicle Fund, pursuant to the provisions of subdivision (b) of Section 38300 of the Vehicle Code, the sum of one hundred fifty thousand dollars ($150,000) to the Department of Parks and Recreation for the purposes of Section 1 of this act, in accordance with the following schedule:

(a) The sum of one hundred twenty-five thousand dollars ($125,000) to the Department of Parks and Recreation for

development and planning costs, including, but not limited to, design, field engineering, construction, and relocation.

(b) The sum of twenty-five thousand dollars ($25,000) to the Department of Parks and Recreation for development and for administrative costs, including, but not limited to, rental, leasing costs, environmental impact reports, archaeological investigation, operating expenses and equipment, and personal services.

SEC. 3. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation, in augmentation of subitem (i) of Item 386 of the Budget Act of 1976, for land acquisition at China Camp, County of Marin, for the state park system. Such appropriation is subject to all limitations and conditions set forth in such act that are applicable to the acquisition of China Camp, except that the proviso applicable to subitem (i) of Item 386 shall be of no force and effect. Instead, the Department of Parks and Recreation may encumber funds appropriated by such subitem and by this section without being required, at any time, to enter into the agreement with the County of Marin referred to in such subitem. The department may, however, enter into a contract relating to China Camp with the County of Marin pursuant to Section 5007 of the Public Resources Code, but such contract may not be imposed as a condition for the expenditure of funds appropriated by such subitem or by this section.

SEC. 4. Section 2.5J is added to the Budget Act of 1976, to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

Sec. 2.5J. The following sums of money, or so much thereof as may be necessary, unless otherwise provided herein, are hereby appropriated for the 1976–77 fiscal year beginning July 1, 1976, and ending June 30, 1977. Appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1976–77 fiscal year. All such appropriations, unless otherwise herein provided, shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1964.

CAPITAL OUTLAY

Resources

403.1J—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivision (a) of Section 5096.15 of the Public Resources Code for expenditure during the 1976–77, 1977–78, and 1978–79 fiscal years, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964	970,000

Schedule:
(a) Delta Meadows, land acquisition.. 970,000

SEC. 5. Section 2.8J is added to the Budget Act of 1976, to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

Sec. 2.8J. The following sums of money, or so much thereof as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1976–77, 1977–78 and 1978–79 fiscal years. Appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1976–77 fiscal year. All such appropriations shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

Local Assistance

Resources

414.1J—For grants to counties, cities, cities and counties, and special districts, as defined in Section 5096.84, pursuant to subdivision (a) of Section 5096.85, of the Public Resources Code, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974 184,526
Unless otherwise provided herein, funds appropriated for each of the local grant projects in this item are for acquisition, development, or both.
Schedule:

Projects in Colusa County

(14.5) County of Colusa, Princeton Park..... 2,000
(14.6) County of Colusa, Grimes Grammar School tennis courts..... 7,600

Projects in Lake County

(53.5) County of Lake, Middletown Park..... 2,200
(53.6) County of Lake, Lower Lake Park..... 1,000

Projects in Marin County

(84.1) Bel Marin Keys Community Services District, Bel Marin Mini Parks 3,908

Projects in Mendocino County

(95.5)—Anderson Valley Community Services District, community park and playground 12,000

Projects in Riverside County

(140.3) City of San Jacinto, Mistletoe Park 9,694

Projects in Sacramento County

(144.2) County of Sacramento, Natomas East Main Drain Trail 146,124

provided, that none of the funds which are appropriated by this item for the projects set forth herein shall be available for expenditure unless and until such projects are submitted to, and reviewed and approved by, the Secretary of the Resources Agency pursuant to Section 5096.89 of the Public Resources Code.

Reversions

415.1J—As of June 30, 1976, the unencumbered balance of the appropriation made by the following items shall revert to the unappropriated balance of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

Item 414 (84), Budget Act of 1976
Bel Marin Keys Community Services District, Montego Park

Item 390 (29), Budget Act of 1975
County of Colusa, Princeton High School tennis courts

Item 390 (32), Budget Act of 1975
County of Colusa, Grand Island Log Cabin

Item 412A (141), Budget Act of 1974, as amended and supplemented by Chapter 1522 of the Statutes of 1974 Anderson Valley Community Services District, Anderson Valley Swimming Pool

415.2J—As of June 30, 1976, $3,200 of the appropriation made by subitem (79) of Item 390 of the Budget Act of 1975 shall revert to the unappropriated balance of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

SEC. 6. (a) Notwithstanding the provisions of subdivision (b) of Section 316 of Chapter 1 of the Statutes of 1971 (First Extraordinary Session), the sum of six hundred thousand dollars ($600,000) is hereby appropriated from the Bagley Conservation Fund to the Department of Parks and Recreation for the construction of slots at Benbow Dam.

(b) The sum of eight hundred thousand dollars ($800,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation for the construction of slots at Benbow Dam.

(c) Funds appropriated from the Bagley Conservation Fund by subdivision (z) of Section 1 of Chapter 1521 of the Statutes of 1974 shall not be expended for the purpose specified therein and shall revert to such fund.

SEC. 6.5. The sum of two million five hundred thousand dollars ($2,500,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation for expenditure for the acquisition and development, as additions to El Capitan State Beach, of lands and improvements thereon, consisting of approximately 1,481 acres of upland area and approximately 11 acres of beach property; provided that such funds shall be expended for such acquisition only if the State Public Works Board determines that sufficient water supply is guaranteed the state and included in the acquisition of such property.

SEC. 7. The unencumbered balance, or so much thereof as may be necessary, of the moneys appropriated in Section 6 of Chapter 738 of the Statutes of 1973 is reappropriated to the Department of Parks and Recreation, without regard to fiscal years, for the purchase of lands situated in the County of Mendocino adjacent to and within the area commonly referred to as Ten Mile Beach and lying westerly of Route 1 between Ten Mile River and MacKerricher State Park, for the state park system.

SEC. 8. The Department of Parks and Recreation, through the Department of General Services, may sell or exchange any of the following described timberlands previously acquired pursuant to Chapter 738 of the Statutes of 1973:

All that real property situated in the County of Humboldt, and described as follows:

The southeast quarter of the northeast quarter of Section 10, T. 2 N., R. 3 E., H.M., 40 acres, more or less.

The southeast quarter of the northwest quarter and the northeast quarter of the southwest quarter of Section 6, T. 3 N., R. 4 E., H.M., 80 acres, more or less.

The southwest quarter of the northwest quarter of Section 23, T. 1 S., R. 3 E., H.M., 40 acres, more or less.

The proceeds of any such sale is hereby appropriated to the Department of Parks and Recreation for the acquisition of lands described in Section 7.

SEC. 9. The sum of one million two hundred fifty-eight thousand dollars ($1,258,000) is reappropriated to the Department of Parks and Recreation from the unencumbered balances of Item 350(aa) of Chapter 129 of the Statutes of 1973, and Item (c) of Section 1 of Chapter 983 of the Statutes of 1973 for the acquisition for the state park system of approximately 1,250 acres located in Sonoma County, commonly referred to as Willow Creek Ranch; provided, however, that the projects budgeted in such two items already approved for acquisition by the State Public Works Board shall have priority over this project; and provided further, that if the unencumbered balances of the money available in such items is less than the amount of one million two hundred fifty-eight thousand dollars ($1,258,000), such additional sum as is necessary to provide such amount is hereby appropriated from the Collier Park Preservation Fund.

SEC. 10. The Director of Parks and Recreation may lease to a local public agency a portion of the California Exposition and State Fair for the purpose of constructing, maintaining, and operating a multiuse sports and entertainment facility. The lease shall be subject to the approval of the Director of General Services, the Director of Finance, and the State Public Works Board.

SEC. 11. Funds appropriated or reappropriated by this act shall not be expended for the purchase of any real property for the state park system or the acquisition of any other interest in real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims 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.

SEC. 12. Any acquisition for the state park system made pursuant to this act shall be subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of this act may augment the Budget Act of 1976 and also enable the acquisition and development of lands of unique value for parks and for recreational facilities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1380

An act to add Section 4201.5 to, the Civil Code, relating to genetic defects.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 4201.5 is added to the Civil Code, to read:

4201.5. The State Department of Health shall prepare and publish a brochure which indicates the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases. The State Department of Health shall make such brochures available to county clerks who shall distribute a copy of the brochure to all applicants for a marriage license. To the extent possible, the State Department of Health shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

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 duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1381

An act to amend Section 44501 of, to amend and renumber Sections 39615.5, 39616.5, and 39620.7 of, and to repeal Section 39601 of, the Health and Safety Code, relating to pollution.

[Approved by Governor September 29, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 39601 of the Health and Safety Code, as amended by Chapter 1165 of the Statutes of 1975, is repealed.

SEC. 2. Section 39615.5 of the Health and Safety Code is amended and renumbered, to read:

44531.5. Notwithstanding the provisions of Section 44531, 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 44541.5. 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 of the Health and Safety Code is amended and renumbered, to read:

44532.5. To the extent that funding has been separately authorized for financing solid waste disposal projects pursuant to Section 44541.5, 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 44531.5.

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 following projects shall be considered for financing:

(a) Projects utilizing recognized resource recovery or energy conversion processes.

(b) Projects utilizing new technologies or processes for resource recovery or energy conversion.

Such projects may include elements which provide for new refuse removal vehicles, transfer stations, resource recovery or energy conversion plants, source separation, or any solid waste disposal facilities involved in resource recovery systems. "Solid waste disposal facilities" means any property, or portion thereof, used for the collection, storage treatment, utilization, processing, or final disposal of solid waste in resource recovery systems.

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 of the Health and Safety Code is amended and renumbered, to read:

44541.5. At such times as the authority desires to issue bonds separately to finance projects for the disposal of solid waste as provided in Sections 44531.5 and 44532.5, 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 44541. All bonds so authorized shall be used solely to finance solid waste disposal facilities and shall be issued as otherwise provided in this chapter.

SEC. 5. Section 44501 of the Health and Safety Code is amended to read:

44501. (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 serves a public purpose and will promote the health, welfare, and safety of the citizens of the State of California.

SEC. 6. Any bonds of the authority issued pursuant to former Section 39620.7 of the Health and Safety Code, and any actions taken pursuant to such section, shall be deemed to have been issued or taken pursuant to Section 44541.5 of the Health and Safety Code, as amended and renumbered by Section 4 of this act, and valid for all such purposes. For such purposes, Section 44541.5 does not constitute a change in, but is declaratory of, existing law.

CHAPTER 1382

An act to amend Section 65040 of, and to add Section 65040.7 to, the Government Code, relating to planning, and making an appropriation therefor.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 65040 of the Government Code is amended to read:

65040. The Office of Planning and Research shall serve the Governor and his cabinet as staff for long-range planning and research, and constitute the comprehensive state planning agencies. In this capacity the office shall:

(a) Assist in the formulation, evaluation and updating of long-range goals and policies for land use, population growth and distribution, urban expansion, open space, resource preservation and utilization, and other factors which shape statewide development patterns and significantly influence the quality of the state's environment.

(b) Assist in the orderly preparation by appropriate state departments and agencies of intermediate- and short-range functional plans to guide programs of transportation, water development, open space, recreation and other functions which relate to the protection and enhancement of the state's environment.

(c) Regularly evaluate plans and programs of departments and agencies of state government, identify conflicts or omissions, and recommend new state policies, programs and actions required to resolve conflicts, advance statewide environmental goals and to respond to emerging environmental problems and opportunities.

(d) Assist the Department of Finance in preparing, as part of the annual state budget, an integrated program of priority actions to implement state functional plans and to achieve statewide environmental goals and objectives and take other actions to assure that the program budget, submitted annually to the Legislature, contains information reporting the achievement of state goals and objectives by departments and agencies of state government.

(e) Coordinate the development of policies and criteria to ensure the federal grants-in-aid administered or directly expended by state government advance statewide environmental goals and objectives.

(f) Coordinate the development and operation of a statewide environmental monitoring system to assess the implications of present growth and development trends on the environment and to identify at an early time, potential threats to public health, natural resources and environmental quality.

(g) Coordinate, in conjunction with appropriate state, regional,

and local agencies, the development of objectives, criteria and procedures for the orderly evaluation and report of the impact of public and private actions on the environmental quality of the state and as a guide to the preparation of environmental impact reports required of state and local agencies in Sections 21102 and 21150 of the Public Resources Code.

(h) Coordinate research activities of state government directed to the growth and development of the state and the preservation of environmental quality, render advice to the Governor, to his cabinet, and any agency or department of state government, and provide information to, and cooperate with, the Legislature or any of its committees or officers.

(i) Coordinate the technical assistance provided by state departments and agencies in regional and local planning to assure that such plans are consistent with statewide environmental goals and objectives.

(j) Accept and allocate or expend grants and gifts from any source, public or private, for the purpose of state planning and undertake other planning and coordinating activities as will implement the policy and intent of the Legislature as set forth herein.

(k) Develop long-range policies to assist the state and local agencies in meeting the problems presented by the growth and development of urban areas and defining the complementary roles of the state, cities, counties, school districts, and special districts with respect to such growth.

(*l*) Encourage the formation and proper functioning of, and provide planning assistance to, city, county, district, and regional planning agencies.

(m) Develop, in conjunction with an advisory committee selected by the director from nominees submitted by the directors of state agencies providing social services, the League of California Cities, the County Supervisors Association of California, the California Committee of Regional Council Directors, the United Way of California, and the California Welfare Rights Organization, criteria for describing the social and economic characteristics of the population of each county in the state, subdivided on a census tract basis. These criteria shall be developed by January 1, 1978.

SEC. 1.5. Section 65040 of the Government Code is amended to read:

65040. The Office of Planning and Research shall serve the Governor and his cabinet and the Legislature as staff for long-range planning and research, and constitute the comprehensive state planning agency. In this capacity the office shall:

(a) Assisted by the Planning Advisory and Assistance Council established pursuant to subdivision (a) of Section 65040.6, engage in the formulation, evaluation and updating of long-range goals and policies for land use, population growth and distribution, urban expansion, development, open space, resource preservation and

utilization, air and water quality, and other factors which shape statewide development patterns and significantly influence the quality of the state's environment.

(b) Assist in the orderly preparation by appropriate state departments and agencies of intermediate- and short-range functional plans to guide programs of transportation, water management, open space, recreation and other functions which relate to the protection and enhancement of the state's environment.

(c) In conjunction with the council, evaluate plans and programs of departments and agencies of state government, identify conflicts or omissions, and recommend to the Governor and the Legislature new state policies, programs and actions, or amendments of existing programs, as required, to resolve conflicts, advance statewide environmental goals to respond to emerging environmental problems and opportunities, and to assure that all state policies and programs conform to the adopted land use planning goals and programs.

(d) Assist the Department of Finance in preparing, as part of the annual state budget, an integrated program of priority actions to implement state functional plans and to achieve statewide environmental goals and objectives and take other actions to assure that the program budget, submitted annually to the Legislature, contains information reporting the achievement of state goals and objectives by departments and agencies of state government.

(e) Coordinate the development of policies and criteria to ensure the federal grants-in-aid administered or directly expended by state government advance statewide environmental goals and objectives.

(f) Coordinate the development and operation of a statewide environmental monitoring system to assess the implications of present growth and development trends on the environment and to identify at an early time, potential threats to public health, natural resources and environmental quality.

(g) Coordinate, in conjunction with appropriate state, regional, and local agencies, the development of objectives, criteria and procedures for the orderly evaluation and report of the impact of public and private actions on the environmental quality of the state and as a guide to the preparation of environmental impact reports required of state and local agencies in Sections 21102 and 21150 of the Public Resources Code.

(h) Coordinate research activities of state government directed to the growth and development of the state and the preservation of environmental quality, render advice to the Governor, to his cabinet, to the Legislature and any agency or department of state government, and provide information to, and cooperate with, the Legislature or any of its committees or officers.

(i) Coordinate the technical assistance provided by state departments and agencies in regional and local planning to assure that such plans are consistent with statewide environmental goals and objectives.

(j) Accept and allocate or expend grants and gifts from any source, public or private, for the purpose of state planning and undertake other planning and coordinating activities as will implement the policy and intent of the Legislature as set forth herein.

(k) Develop long-range policies to assist the state and local agencies in meeting the problems presented by the growth and development of urban areas and defining the complementary roles of the state, cities, counties, school districts, and special districts with respect to such growth.

(*l*) Encourage the formation and proper functioning of, and provide planning assistance to, city, county, district, and regional planning agencies.

(m) Develop, in conjunction with an advisory committee selected by the director from nominees submitted by the directors of state agencies providing social services, the League of California Cities, the County Supervisors Association of California, the California Committee of Regional Council Directors, the United Way of California, and the California Welfare Rights Organization, criteria for describing the social and economic characteristics of the population of each county in the state, subdivided on a census tract basis. These criteria shall be developed by January 1, 1978.

(n) Assist local government in land use planning.

SEC. 2. Section 65040.7 is added to the Government Code, to read:

65040.7. The director of the office shall select, with their concurrence, from among the counties of the state, three counties; one urban, one rural, and one predominately suburban in which to demonstrate the feasibility and cost of developing under the direction of the office, a social profile containing information on the social and economic characteristics of the population of each county reported on a census tract basis. These profiles shall be based upon criteria developed pursuant to subdivision (m) of Section 65040 and shall consist of maps, charts, or written summaries of social and economic conditions, identifying by census tract the location and concentration of specific problems and conditions in each county. In the preparation of the social profile, each demonstration county shall consult with an advisory committee representing each city located within the county which exercises an option to participate in such an advisory committee. Each demonstration county shall record the cost of reporting the stipulated data on a census tract basis and compiling the data in a social profile; and shall further record the cost of assembling and reporting the same data according to regulations currently established by state agencies requiring reports to be made. The director of the office shall report the findings of the demonstration project to the Legislature by January 1, 1979, at which time the Legislature may determine the feasibility of requiring such a social profile to be prepared for each county in the state by January 1, 1983, and revised each five years thereafter. It is the intent of the

03508 291310 459

Legislature to determine through such a demonstration project whether the state, through the Office of Planning and Research, may assist local government officials to assess the impacts of proposed planning decisions on the social well-being of the community and to allocate their resources to areas of greatest need. It is also the intent of the Legislature to determine whether such a uniform assessment of the social and economic characteristics of the counties of the state may be used to determine the state's most urgent needs and priorities for state funded social services.

SEC. 2.5. It is the intent of the Legislature, if this bill and Senate Bill No. 1584 are both chaptered and become effective January 1, 1977, both bills amend Section 65040 of the Government Code, and this bill is chaptered after Senate Bill No. 1584, that the amendments to Section 65040 proposed by both bills be given effect and incorporated in Section 65040 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. 1584 are both chaptered and become effective January 1, 1977, both amend Section 65040, and this bill is chaptered after Senate Bill No. 1584, in which case Section 1 of this act shall not become operative.

SEC. 3. The sum of seventeen thousand five hundred dollars ($17,500) is hereby appropriated from the General Fund in the State Treasury to the Office of Planning and Research in support of one-half of the cost of funding under subdivision (m) of Section 65040 of the Government Code as amended by this act. Such six-month appropriation made pursuant to this section shall be reduced on a pro rata basis by the amount of federal funds received to carry out the purposes of this act for the 12-month period covered by the project established under this act. It is the intention of the Legislature that the appropriation made by this act provide state funding in support of subdivision (m) of Section 65040 of the Government Code during one-half of the duration of the project established under such subdivision, and that the other one-half of the necessary funding be provided within the normal budgetary process.

CHAPTER 1383

An act to add and repeal Section 14018.5 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 29, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 14018.5 is added to the Welfare and Institutions Code, to read:

14018.5. Except as otherwise provided in this section, the director may and is urged to conduct a pilot project in Monterey County under which the term of the Medi-Cal card for a public assistance recipient under an alternate payment system established under Section 10825 shall, to the extent feasible, coincide with the issuance of the recipient's aid and the Medi-Cal card shall be authorization for payment for health care services rendered during the month of application and any subsequent period covered by the card to coincide with the issuance of the recipient's aid. In such county the Medi-Cal program shall experiment with alternative methods of establishing one proof of eligibility for any single admission to a health facility as defined in subdivisions (a) and (b) of Section 1250 of the Health and Safety Code for inpatient hospital services.

The director may waive such specific statutory requirements, regulations and standards as are necessary in order to conduct the pilot project under this section.

If in the judgment of the director a significant cost would be incurred by the department as a result of the provisions of this section, the director shall not implement this section.

This section shall become inoperative January 1, 1982, and on such date is repealed. The director and Monterey County shall make a progress report on or before July 1, 1977, including feasibility of the alternative methods, and thereafter on or before January 1st of each year.

CHAPTER 1384

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

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. "Sale" and "purchase", for the purposes of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, do not include any transfer of title of tangible personal property constituting any project or pollution control facility to the California Pollution Control Financing Authority by any participating party, nor any lease or transfer of title of tangible personal property constituting any project or pollution control facility by the authority to any participating party, when the transfer or lease is made pursuant to Division 27 (commencing with Section 44500) of the Health and Safety Code. The terms "project", "pollution control facility", and "participating party" as used in this

section have the meanings ascribed to them in Sections 44506 and 44508 of the Health and Safety Code.

SEC. 2. Notwithstanding Section 2230 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 is no revenue loss to local entities caused 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:

The California Pollution Control Financing Authority needs this matter clarified so that it can proceed with the urgently needed program to assist small businesses.

CHAPTER 1385

An act to amend Section 1203 of, and to add Section 1222.5 to, the Health and Safety Code, relating to clinics, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 1203 of the Health and Safety Code is amended to read:

1203. No clinics are eligible for licensure under this chapter, except the classes as defined in the following:

(a) A community clinic is a clinic operated by a nonprofit corporation, supported and maintained in whole or in part by donations, bequests, gifts, grants, fees, or contributions. In a community clinic any charges for advice, diagnosis, treatment, medicines, drugs, appliances, or apparatus concerning bodily and mental disease and injuries are based on ability of the patient to pay or such services may be given without charge. No corporation, other than a nonprofit corporation, no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual, shall operate a community clinic. No natural person or persons shall operate a community clinic.

(b) A teaching and research clinic is a clinic operated by or affiliated with any institution of learning which teaches a recognized healing art and which is approved by the state agency having regulation of the practice of that healing art.

(c) An employer's clinic is a clinic operated by an employer, or jointly by two or more employers, without profit to them, for the prevention and treatment of accidental injuries to, and the care of the health of, their employees only.

03831 291395 476

(d) An employees' clinic is a clinic operated by a group of employees or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising such group.

(e) A surgical clinic is a clinic which is not part of a hospital and which provides ambulatory surgical care for patients who remain less than 24 hours. A surgical clinic does not include the offices of private physicians, or dentists, in individual or group practice.

(f) A chronic dialysis clinic is a clinic which provide less than 24-hour care for the treatment of patients with end-stage renal disease.

(g) A free clinic is a clinic operated by a nonprofit corporation. The board of directors of the nonprofit corporation shall be composed of four or more persons and a majority of such persons shall be representatives of consumers of services at that facility. A free clinic is supported in whole by voluntary donations, bequests, gifts, grants, or other things of value to provide medical and counseling services. In a free clinic, there shall be no charges directly to the patient for advice, diagnosis, treatment, medicines, drugs, appliances, or apparatus concerning bodily injury and mental disease and injuries. No corporation, other than a nonprofit corporation, no part of the net earnings of which inure, or may lawfully inure, to the benefit of any shareholder or individual, shall operate a free clinic.

SEC. 2. Section 1222.5 is added to the Health and Safety Code, to read:

1222.5. The director shall appoint a statewide Advisory Committee on Community Clinics and Free Clinics consisting of 12 members to advise him on the delivery of care and services through community clinics and free clinics.

In making, amending, or rescinding rules and regulations relating to community clinics as defined in subdivision (a) of Section 1203, and free clinics as defined in subdivision (g) of Section 1203, the department shall seek out and consider the recommendations and opinion of the advisory committee.

The members of the advisory committee shall be selected to broadly represent geography, types of services offered by community and free clinics, and patient populations. Such members shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in connection with the performance of their duties.

The advisory committee shall advise the director regarding existing and proposed regulations, policy, and administrative practices pertaining to community clinics and free clinics. The advisory committee shall review existing and future regulations for community clinics and free clinics, and shall submit its written comments to the director regarding possible changes in existing regulations and prior to adoption of any new regulations.

The advisory committee shall be solely advisory in character and

shall not be delegated any administrative authority or responsibility.

The advisory committee shall meet not less than four times per year and shall prepare and transmit to the department and the appropriate legislative committees not later than January 1, 1978, a report on the role of community and free clinics in the State of California.

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 to permit the licensing of clinics that provide necessary medical services to the indigent, it is necessary that this bill go into immediate effect.

CHAPTER 1386

An act to amend Sections 65040, 65040.6, and 65041 of, to add Sections 65028.1, 65028.2, 65030.1, 65030.2, and 65036.1 to, and to repeal and add Sections 65030, 65033, and 65035 of, the Government Code, relating to land use planning.

[Approved by Governor September 28, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 65028.1 is added to the Government Code, to read:

65028.1. "Council," as used in this chapter, means the Planning Advisory and Assistance Council established pursuant to subdivision (a) of Section 65040.6.

SEC. 2. Section 65028.2 is added to the Government Code, to read:

65028.2. "District," as used in this chapter, means a regional planning district created by the Office of Planning and Research pursuant to Section 65040.4.

SEC. 3. Section 65030 of the Government Code is repealed.

SEC. 4. Section 65030 is added to the Government Code, to read:

65030. The Legislature finds and declares that California's land is an exhaustible resource, not just a commodity, and is essential to the economy, environment and general well-being of the people of California. It is the policy of the state and the intent of the Legislature to protect California's land resource, to insure its preservation and use in ways which are economically and socially desirable in an attempt to improve the quality of life in California.

SEC. 5. Section 65030.1 is added to the Government Code, to read:

65030.1. The Legislature also finds that decisions involving the

future growth of the state, most of which are made and will continue to be made at the local level, should be guided by an effective planning process, including the local general plan, and should proceed within the framework of officially approved statewide goals and policies directed to land use, population growth and distribution, development, open space, resource preservation and utilization, air and water quality, and other related physical, social and economic development factors.

SEC. 6. Section 65030.2 is added to the Government Code, to read:

65030.2. It is further the policy of the state and the intent of the Legislature that land use decisions be made with full knowledge of their economic and fiscal implications, giving consideration to short-term costs and benefits, and their relationship to long-term environmental impact as well as long-term costs and benefits.

SEC. 7. Section 65033 of the Government Code is repealed.

SEC. 8. Section 65033 is added to the Government Code, to read:

65033. The Legislature recognizes the importance of public participation at every level of the planning process. It is therefore the policy of the state and the intent of the Legislature that each state, regional, and local agency concerned in the planning process involve the public through public hearings, informative meetings, publicity and other means available to them, and that at such hearings and other public forums, the public be afforded the opportunity to respond to clearly defined alternative objectives, policies, and actions.

SEC. 9. Section 65035 of the Government Code is repealed.

SEC. 10. Section 65035 is added to the Government Code, to read:

65035. The Legislature finds that it is necessary to have one agency at the state level which is responsible for developing state land use policies, coordinating planning of all state agencies, and assisting and monitoring local and regional planning. The Legislature recognizes that the Office of Planning and Research in the office of the Governor, as the most appropriate state agency to carry out this statewide land use planning function. It is not the intent of the Legislature to vest in the Office of Planning and Research any direct operating or regulatory powers over land use, public works, or other state, regional, or local projects or programs.

SEC. 11. Section 65036.1 is added to the Government Code, to read:

65036.1. The Legislature recognizes that the state planning process, particularly with regard to the preparation of statewide goals and policies, should incorporate the recommendations and views of an advisory council that is responsive to, and of some assistance to, the planning concerns that occur on a local and regional basis.

SEC. 12. Section 65040 of the Government Code is amended to read:

65040. The Office of Planning and Research shall serve the Governor and his Cabinet and the Legislature as staff for long-range planning and research, and constitute the comprehensive state planning agency. In this capacity the office shall:

(a) Assisted by the Planning Advisory and Assistance Council established pursuant to subdivision (a) of Section 65040.6, engage in the formulation, evaluation and updating of long-range goals and policies for land use, population growth and distribution, urban expansion, development, open space, resource preservation and utilization, air and water quality, and other factors which shape statewide development patterns and significantly influence the quality of the state's environment.

(b) Assist in the orderly preparation by appropriate state departments and agencies of intermediate- and short-range functional plans to guide programs of transportation, water management, open space, recreation and other functions which relate to the protection and enhancement of the state's environment.

(c) In conjunction with the council, evaluate plans and programs of departments and agencies of state government, identify conflicts or omissions, and recommend to the Governor and the Legislature new state policies, programs and actions, or amendments of existing programs, as required, to resolve conflicts, advance statewide environmental goals to respond to emerging environmental problems and opportunities, and to assure that all state policies and programs conform to the adopted land use planning goals and programs.

(d) Assist the Department of Finance in preparing, as part of the annual state budget, an integrated program of priority actions to implement state functional plans and to achieve statewide environmental goals and objectives and take other actions to assure that the program budget, submitted annually to the Legislature, contains information reporting the achievement of state goals and objectives by departments and agencies of state government.

(e) Coordinate the development of policies and criteria to ensure the federal grants-in-aid administered or directly expended by state government advance statewide environmental goals and objectives.

(f) Coordinate the development and operation of a statewide environmental monitoring system to assess the implications of present growth and development trends on the environment and to identify at an early time, potential threats to public health, natural resources and environmental quality.

(g) Coordinate, in conjunction with appropriate state, regional, and local agencies, the development of objectives, criteria and procedures for the orderly evaluation and report of the impact of public and private actions on the environmental quality of the state and as a guide to the preparation of environmental impact reports required of state and local agencies in Sections 21102 and 21150 of the Public Resources Code.

(h) Coordinate research activities of state government directed to

the growth and development of the state and the preservation of environmental quality, render advice to the Governor, to his Cabinet, to the Legislature, and any agency or department of state government, and provide information to, and cooperate with, the Legislature or any of its committees or officers.

(i) Coordinate the technical assistance provided by state departments and agencies in regional and local planning to assure that such plans are consistent with statewide environmental goals and objectives.

(j) Accept and allocate or expend grants and gifts from any source, public or private, for the purpose of state planning and undertake other planning and coordinating activities as will implement the policy and intent of the Legislature as set forth herein.

(k) Develop long-range policies to assist the state and local agencies in meeting the problems presented by the growth and development of urban areas and defining the complementary roles of the state, cities, counties, school districts, and special districts with respect to such growth.

(*l*) Encourage the formation and proper functioning of, and provide planning assistance to, city, county, district, and regional planning agencies.

(m) Assist local government in land use planning.

SEC. 12.5. Section 65040 of the Government Code is amended to read:

65040. The Office of Planning and Research shall serve the Governor and his Cabinet as staff for long-range planning and research, and constitute the comprehensive state planning agency. In this capacity the office shall:

(a) Assisted by the Planning Advisory and Assistance Council established pursuant to subdivision (a) of Section 65040.6, engage in the formulation, evaluation and updating of long-range goals and policies for land use, population growth and distribution, urban expansion, development, open space, resource preservation and utilization, air and water quality, and other factors which shape statewide development patterns and significantly influence the quality of the state's environment.

(b) Assist in the orderly preparation by appropriate state departments and agencies of intermediate- and short-range functional plans to guide programs of transportation, water management, open space, recreation and other functions which relate to the protection and enhancement of the state's environment.

(c) In conjunction with the council, evaluate plans and programs of departments and agencies of state government, identify conflicts or omissions, and recommend to the Governor and the Legislature new state policies, programs and actions, or amendments of existing programs, as required, to resolve conflicts, advance statewide environmental goals to respond to emerging environmental problems and opportunities, and to assure that all state policies and

programs conform to the adopted land use planning goals and programs.

(d) Assist the Department of Finance in preparing, as part of the annual state budget, an integrated program of priority actions to implement state functional plans and to achieve statewide environmental goals and objectives and take other actions to assure that the program budget, submitted annually to the Legislature, contains information reporting the achievement of state goals and objectives by departments and agencies of state government.

(e) Coordinate the development of policies and criteria to ensure the federal grants-in-aid administered or directly expended by state government advance statewide environmental goals and objectives.

(f) Coordinate the development and operation of a statewide environmental monitoring system to assess the implications of present growth and development trends on the environment and to identify at an early time, potential threats to public health, natural resources and environmental quality.

(g) Coordinate, in conjunction with appropriate state, regional, and local agencies, the development of objectives, criteria and procedures for the orderly evaluation and report of the impact of public and private actions on the environmental quality of the state and as a guide to the preparation of environmental impact reports required of state and local agencies in Sections 21102 and 21150 of the Public Resources Code.

(h) Coordinate research activities of state government directed to the growth and development of the state and the preservation of environmental quality, render advice to the Governor, to his Cabinet, to the Legislature, and any agency or department of state government, and provide information to, and cooperate with, the Legislature or any of its committees or officers.

(i) Coordinate the technical assistance provided by state departments and agencies in regional and local planning to assure that such plans are consistent with statewide environmental goals and objectives.

(j) Accept and allocate or expend grants and gifts from any source, public or private, for the purpose of state planning and undertake other planning and coordinating activities as will implement the policy and intent of the Legislature as set forth herein.

(k) Develop long-range policies to assist the state and local agencies in meeting the problems presented by the growth and development of urban areas and defining the complementary roles of the state, cities, counties, school districts, and special districts with respect to such growth.

(*l*) Encourage the formation and proper functioning of, and provide planning assistance to, city, county, district, and regional planning agencies.

(m) Develop, in conjunction with an advisory committee selected by the director from nominees submitted by the directors of state

agencies providing social services, the League of California Cities, the County Supervisors Association of California, the California Committee of Regional Council Directors, the United Way of California, and the California Welfare Rights Organization, criteria for describing the social and economic characteristics of the population of each county in the state, subdivided on a census tract basis. These criteria shall be developed by January 1, 1978.

(n) Assist local government in land use planning.

SEC. 13. Section 65040.6 of the Government Code is amended to read:

65040.6. (a) The Planning Advisory and Assistance Council is hereby created within the office, the membership of which shall be as follows: three city representatives; three county representatives; one representative of each district, provided that at least two of the district representatives are representatives of metropolitan areawide planning organizations and that at least one of the district representatives is a representative of a nonmetropolitan planning organization; and one representative of Indian tribes and bands which have reservations or rancherias within California. The city and county representatives appointed pursuant to this subdivision shall be selected by the director from nominees submitted by the League of California Cities and by the County Supervisors Association of California. Representatives of areawide planning organizations appointed pursuant to this subdivision shall be selected by the director from nominees submitted by the several areawide planning organizations within the state. Other district representatives shall be appointed by the director. The representative of Indian tribes and bands shall be a member of one such tribe or band, and shall be selected by the director.

Appointment to the advisory council shall be for a term of two years, provided that the members of the first council shall classify themselves by lot so that one-half shall serve an initial term of one year and one-half shall serve an initial term of two years. Vacancies shall be filled in the same manner provided for the original appointment.

(b) The council shall provide such advice as may be necessary to assist the office in discharging the requirements of Sections 65040 to 65040.4, inclusive,. In particular, the council shall:

(1) Assist the office in the preparation of the state long-range goals and policies, in the manner specified in subdivision (a) of Section 65040.

(2) Evaluate the planning functions of the various state agencies involved in planning, in the manner specified in subdivision (c) of Section 65040.

(3) Make appropriate decisions and provide such advice and assistance as may be required by federal statute or regulation in connection with any federal program administered by the office.

(c) The council shall meet on call of the director of the office, who shall convene at least two council meetings during each year.

(d) Council members shall serve without compensation, but they may be reimbursed for actual expenses incurred in connection with their duties.

SEC. 14. Section 65041 of the Government Code is amended to read:

65041. The Governor shall prepare and thereafter shall cause to be maintained, regularly reviewed and revised a comprehensive State Environmental Goals and Policy Report. In the preparation of the report, priority shall be given to the development of statewide land use policy, including the recommendations resulting from the land use planning and implementation program set forth in Section 65040.6, and including the recommendations of the Planning Advisory and Assistance Council established pursuant to subdivision (a) of Section 65040.6. The report shall contain, but not be limited to, the following:

(a) An overview, looking 20 to 30 years ahead, of state growth and development and a statement of approved state environmental goals and objectives, including those directed to land use, population growth and distribution, development, the conservation of natural resources, and air and water quality.

(b) Description of new and revised state policies, programs and other actions of the executive and legislative branches required to implement statewide environmental goals, including intermediate-range plans and actions directed to natural resources, human resources and transportation.

SEC. 15. It is the intent of the Legislature, if this bill and Assembly Bill No. 3508 are both chaptered and become effective January 1, 1977, both bills amend Section 65040 of the Government Code, and this bill is chaptered after Assembly Bill No. 3508, that the amendments to Section 65040 proposed by both bills be given effect and incorporated in Section 65040 in the form set forth in Section 12.5 of this act. Therefore, Section 12.5 of this act shall become operative only if this bill and Assembly Bill No. 3508 are both chaptered and become effective January 1, 1977, both amend Section 65040, and this bill is chaptered after Assembly Bill No. 3508, in which case Section 12 of this act shall not become operative.

CHAPTER 1387

An act relating to health and making an appropriation therefor.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976.]

I am deleting the $50,000 appropriation contained in Section 6 of Assembly Bill No 4492

I will instruct the Department of Health to fund the activities called for in this bill with federal funds

With this deletion, I approve Assembly Bill No 4492

EDMUND G. BROWN JR., Governor

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

SECTION 1. The Legislature finds and declares that expanding knowledge of healthy living indicates we can enhance the physical and emotional growth of each child by providing an environment responsive to the child's needs. The dissemination of new theories of prenatal care, childbirth practices, and birthing is awakening public awareness to the existence of alternatives to traditional medical modes and practices and the recognition that each person is sensitive to and affected by his or her perception of personal physical and emotional environment prior to, during, and immediately following birth. In authorizing the practice of nurse-midwifery, the Legislature recognized the legitimacy of one such alternative birthing practice.

The Legislature further recognizes another innovative practice of birth without violence by Frederick Leboyer, a French obstetrician focusing attention on the just-born infant. It is a birthing method whereby babies are born sheltered from noise and light in a loving and peaceful atmosphere and allowed to lie with the mother and adjust slowly to their new environment. Early results of research being done with children born in this manner indicate that they are generally above average in their development and are extremely alert and creative.

It is the desire of the Legislature to enhance the creation of a human environment which enriches and expands each person's self-awareness, acceptance, and trust in his or her ability to actualize himself or herself, and to enhance the realization of each person as an authentic and self-directed person from birth onward. The Legislature recognizes that prospective parents should have the opportunity to choose those methods and practices of birthing which best suit their unique wants and needs, and which they feel are best suited for their child.

Therefore, this act provides for the creation of a special committee to study health and health-care procedures surrounding the birth of humans.

SEC. 2. The Director of Health shall appoint a committee to study health and health-care procedures surrounding the birth of humans. The study shall include, but need not be limited to, an examination and evaluation of the following:

(a) Alternatives in health and health-care methods and procedures prior to birth.

(b) Alternatives in health and health-care methods and procedures during birth, including, but not limited to, home birth, birth clinics, and mobile units equipped to provide birth services.

(c) Alternatives in health and health-care methods and procedures immediately following birth.

(d) The advantages and risks of each alternative procedure,

including, but not limited to, a consideration of emergency and crisis intervention, facilities, and procedures.

(e) The availability thereof.

(f) The legal and malpractice implications thereof, for individual and institutional providers.

(g) The insurance implications thereof, including public and private insurers.

(h) Methods used to inform the public of such alternatives, together with evaluations thereof, and of their right to select among such alternatives.

(i) The extent to which such alternatives, together with evaluations thereof, are being presented in health education courses in the public school system.

(j) The extent to which such alternatives, together with evaluations thereof, are being presented in the education of health care professionals.

SEC. 3. The committee shall be comprised of, but need not be limited to, one person from each of the following categories:

(a) Physicians, obstetricians, surgeons, pediatricians, and professional nurses.

(b) Nurse-midwives.

(c) Lay-midwives.

(d) Hospital administrators.

(e) Educators with experience in early childhood education.

(f) Attorneys at law.

(g) Active, concerned citizens.

(h) Teaching staff of medical schools.

SEC. 4. The committee shall submit a report of its findings and recommendations, including recommendations for further study and changes in statutory law and administrative regulations, to the Legislature on or before January 1, 1978, and the commission shall be dissolved six months following the submission of such report to the Legislature.

SEC. 5. Members of the committee shall receive no compensation for their services but shall be reimbursed for their necessary travel expenses incurred in the performance of their official duties.

SEC. 6. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the State Department of Health for expenditure for the purpose of this act; provided, that federal moneys shall be used to fund the study required by this act, if determined by the Director of Finance to be available for such purpose.

CHAPTER 1388

An act to amend Section 43013 of the Government Code, and to amend Section 155.13 of the Revenue and Taxation Code, relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 43013 of the Government Code is amended to read:

43013. Notwithstanding any other provision of law, the legislative body of a chartered city which assesses and collects its own property taxes may, by ordinance, provide that every person who at 12:01 a.m. on March 1 was the owner of, or had in his possession or under his control, any taxable property, or who acquired such property after such date and is liable for the taxes thereon for the fiscal year commencing the immediately following July 1, which property was thereafter damaged or destroyed, without his fault, by a misfortune or calamity, may, within the time specified in the ordinance, make application for the reassessment of such property and deliver to the assessing official of the city a written statement showing the condition and value, if any, of the property immediately after the damage or destruction, which damage must be shown thereon to be in excess of five thousand dollars ($5,000). The application shall be executed under penalty of perjury or, if executed outside the State of California, verified by affidavit.

Upon receiving a proper application, the assessor shall reassess the property according to its full cash value immediately after the damage or destruction. The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage.

If the damaged full cash value of the property as determined above is not at least five thousand dollars ($5,000) less than the full cash value shown on the assessment roll for the year in question, no adjustment shall be made to said roll and no taxes shall be canceled or refunded. Those reassessed values resulting from reductions in full

cash value of at least five thousand dollars ($5,000), as determined above, shall be forwarded to the auditor by the assessor or the clerk of the board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, said reassessed values shall not be subject to review except by a court of competent jurisdiction.

If no such application is made and the county assessor determines that the full cash value of such property for the assessment year is reduced by more than five thousand dollars ($5,000) from the full cash value of the property for the immediately preceding assessment year due to the damage or destruction caused by the misfortune or calamity, the assessor shall notify the property owner that the property will be reassessed. The assessor shall assess the property, or reassess it if it has already been assessed, according to the condition and value immediately after the damage or destruction, and the assessor, if he reassesses the property, shall transmit to the local board of equalization a description of the property so reassessed, the name of the person making the application in connection with the property, if any, or the name of the property owner notified of the reassessment, and the value of the property as so reassessed. Upon such notice as it may find to be proper, the local board of equalization shall equalize any such assessment or reassessment.

As used in this section, "damage" includes property which has diminished in value as a result of restricted access to the property where such diminution in value was caused by the misfortune or calamity.

The tax rate fixed for property on the roll on which the property so assessed appears or the property so reassessed appeared at the time of its original assessment shall be applied to the amount of the equalized assessment or reassessment determined in accordance with this section. In the event that the resulting figure is less than the tax theretofore computed, the tax shall be determined as follows:

(a) With respect to property on the secured roll, a prorated portion of the tax due on the property as originally assessed at the rate established for the property on the secured roll for the current fiscal year, such proration to be determined on the basis of the number of months in the year during which the property was in an undamaged condition plus a proration of the tax due on the property as reassessed in its damaged or destroyed condition at the rate established for property on the secured roll for such fiscal year, such proration to be determined on the basis of the number of months in the year in which the property was in a damaged condition, including the month in which the damage was incurred.

(b) With respect to property on the unsecured roll, a prorated portion of the tax shall be computed on the original assessment of the property and a prorated portion of the tax computed on the reassessment of the property as determined in the preceding paragraph.

Any tax paid in excess of the total tax due shall be refunded to the

taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code, as an erroneously collected tax.

SEC. 2. Section 155.13 of the Revenue and Taxation Code is amended to read:

155.13. Notwithstanding any provision of law to the contrary, the board of supervisors may, by ordinance, provide that every person who at 12:01 a.m. on March 1 was the owner of, or had in his possession, or under his control, any taxable property, or who acquired such property after such date and is liable for the taxes thereon for the fiscal year commencing the immediately following July 1, which property was thereafter damaged or destroyed, without his fault, by a misfortune or calamity, may, within the time specified in the ordinance, apply for reassessment of such property by delivering to the assessor a written application showing the condition and value, if any, of the property immediately after the damage or destruction, which damage must be shown therein to be in excess of five thousand dollars ($5,000). The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

Upon receiving a proper application, the assessor shall reassess the property according to its full cash value immediately after the damage or destruction. The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage.

If the damaged full cash value of the property as determined above is not at least five thousand dollars ($5,000) less than the full cash value shown on the assessment roll for the year in question, no adjustment shall be made to said roll and no taxes shall be canceled or refunded. Those reassessed values resulting from reductions in full cash value of at least five thousand dollars ($5,000), as determined above, shall be forwarded to the auditor by the assessor or the clerk of the board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, said reassessed values shall not be subject to review except by a court of competent jurisdiction.

If no such application is made and the county assessor determines that the full cash value of such property for the assessment year is reduced from the full cash value of such property for the immediately preceding assessment year by more than five thousand

dollars ($5,000) due to the damage or destruction caused by the misfortune or calamity, the assessor shall notify the property owner that the property will be reassessed. The assessor shall assess the property, or reassess it if it has already been assessed, according to the condition and value immediately after the damage or destruction, and the assessor, if he reassesses the property, shall transmit to the local board of equalization a description of the property so reassessed, the name of the person making the application in connection with the property, if any, or the name of the property owner notified of the reassessment, and the value of the property as so reassessed. Upon such notice as it may find to be proper, the local board of equalization shall equalize any such assessment or reassessment.

As used in this section, "damage" includes property which has diminished in value as a result of restricted access to the property where such diminution in value was caused by the misfortune or calamity.

The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of its original assessment shall be applied to the amount of the reassessment determined in accordance with this section. In the event that the resulting figure is less than the tax theretofore computed, the tax shall be determined as follows:

(a) With respect to property on the secured roll a prorated portion of the tax due on the property as originally assessed at the rate established for property on the secured roll for the current fiscal year, such proration to be determined on the basis of the number of months in the year during which the property was in an undamaged condition plus a proration of the tax due on the property as reassessed in its damaged or destroyed condition at the rate established for property on the secured roll for such fiscal year, such proration to be determined on the basis of the number of months in the year in which the property was in a damaged condition, including the month in which the damage was incurred.

(b) With respect to property on the unsecured roll, he shall be liable for a prorated portion of the tax computed on the original assessment of the property and a prorated portion of the tax computed on the reassessment of the property as determined in the preceding paragraph.

Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9 of this division, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5.

This section applies to all counties, whether operating under a charter or under the general laws of this state.

SEC. 2.5. Section 155.13 of the Revenue and Taxation Code is amended to read:

155.13. Notwithstanding any provision of law to the contrary, the board of supervisors may, by ordinance, provide that every person

who at 12:01 a.m. on March 1 was the owner of, or had in his possession, or under his control, any taxable property, or who acquired such property after such date and is liable for the taxes thereon for the fiscal year commencing immediately following July 1, which property was thereafter damaged or destroyed, without his fault, by a misfortune or calamity, may, within 60 days of such misfortune or calamity, apply for reassessment of such property by delivering to the assessor a written application showing the condition and value, if any, of the property immediately before and after the damage or destruction, which damage must be shown therein to be in excess of five thousand dollars ($5,000). The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

Upon receiving a proper application, the assessor shall verify the amounts claimed on the application in the before and after condition. The assessor shall then compute a percentage relationship of loss and reduce the current assessed value by that percentage. The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage.

If the amount of damage, as verified by the assessor, is not at least five thousand dollars ($5,000), no adjustment shall be made to said roll and no taxes shall be canceled or refunded. The reassessments resulting from those reductions, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, said reassessments shall not be subject to review except by a court of competent jurisdiction.

If no such application is made and the assessor determines that a property has suffered damage caused by misfortune or calamity, which may qualify the property owner for relief under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the assessor. Upon receipt of a properly completed, timely filed application, the assessor shall proceed to reassess property in the same manner as required above.

The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of its original assessment shall be applied to the amount of the reassessment determined in accordance

with this section. In the event that the resulting figure is less than the tax theretofore computed, the tax shall be determined as follows:

(a) With respect to property on the secured roll a prorated portion of the tax due on the property as originally assessed at the rate established for property on the secured roll for the current fiscal year, such proration to be determined on the basis of the number of months in the year during which the property was in an undamaged condition plus a proration of the tax due on the property as reassessed in its damaged or destroyed condition at the rate established for property on the secured roll for the balance of the fiscal year.

(b) With respect to property on the unsecured roll, he shall be liable for a prorated portion of the tax computed on the original assessment of the property and a prorated portion of the tax computed on the reassessment of the property as determined in the preceding paragraph.

Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9 of this division, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5.

The assessment of the property, in its damaged condition, as determined by this section, shall be reviewed at the lien date next following the date of the misfortune or calamity and shall be assessed in the same manner as prescribed by law for any other assessable property.

This section applies to all counties, whether operating under a charter or under the general laws of this state.

SEC. 3. Notwithstanding any other provision of law, the board of supervisors of any county which did not adopt an ordinance pursuant to Section 155.13 of the Revenue and Taxation Code for the 1974–75 assessment year may adopt such an ordinance for that year; provided, however, that the ordinance shall be adopted not more than 90 days after the effective date of this section.

SEC. 3.5. It is the intent of the Legislature, if this bill and Assembly Bill No. 3522 are both chaptered and amend Section 155.13 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 3522, that Section 155.13 of the Revenue and Taxation Code, as amended by Section 2 of this act shall remain operative only until the effective date of Assembly Bill No. 3522, and that on the effective date of Assembly Bill No. 3522 Section 155.13 of the Revenue and Taxation Code as amended by Section 2 of this act be further amended in the form set forth in Section 2.5 of this act to incorporate the changes in Section 155.13 proposed by Assembly Bill No. 3522. Therefore, Section 2.5 of this act shall become operative only if Assembly Bill No. 3522 is chaptered before this bill and amends Section 155.13, and in such case Section 2.5 of this act shall become operative on the operative date of Assembly Bill No. 3522.

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 November 1974, the people of the state amended the Constitution to permit the reassessment for property taxation of property damaged or destroyed after the lien date to which the assessment related. The law required that a city or county adopt an ordinance to enable eligible persons to apply for relief; and due to the newness of the provision and brief period for the adoption of such an ordinance some counties did not adopt an ordinance for the 1974–75 assessment year, and some persons, otherwise eligible, were unable to apply for relief. This act will remedy the situation, and in so doing the intent of Section 15 of Article XIII of the Constitution will be fulfilled, the public policy of the state will be subserved, and the state as a whole will benefit.

CHAPTER 1389

An act to amend Section 431.40 of the Code of Civil Procedure, relating to general denial.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 431.40 of the Code of Civil Procedure is amended to read:

431.40. (a) Any provision of law to the contrary notwithstanding, in any action in which the demand, exclusive of interest, or the value of the property in controversy does not exceed seven hundred fifty dollars ($750), the defendant at his option, in lieu of demurrer or other answer, may file a general written denial and a brief statement of any new matter constituting a defense.

(b) Nothing in this section excuses the defendant from complying with the provisions of law applicable to a cross-complaint, and any cross-complaint of the defendant shall be subject to the requirements applicable in any other action.

(c) The general written denial described in subdivision (a) shall be on a blank available at the place of filing and shall be in a form prescribed by the Judicial Council. This form need not be verified.

CHAPTER 1390

An act to add and repeal Section 243.2 to the Penal Code, relating to assault and battery.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 243.2 is added to the Penal Code, to read:

243.2. 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, and the person committing the offense knows or reasonably should know that such victim is a peace officer engaged in the performance of his duties, and such peace officer 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by subdivision (a) of Section 830.3.

SEC. 2. Section 243.2 is added to the Penal Code, to read:

243.2. 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, and the person committing the offense knows or reasonably should know that such victim is a peace officer engaged in the performance of his duties, and such peace officer 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by subdivision (a) of Section 830.3.

This section shall be operative July 1, 1977.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective on or before January 1, 1977, that Section 243.2 of the Penal Code, as added by Section 1 of this bill shall remain operative until the operative date of Senate Bill No. 42, and that on the operative date of Senate Bill No. 42 Section 243.2 of the Penal Code, as added by Section 1 is repealed and Section 243.2 of the Penal Code as added by Section 2 of this act shall become operative.

CHAPTER 1391

An act relating to San Jose State University.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Notwithstanding any other provision of law, the Director of General Services, with the approval of the State Public Works Board and the Trustees of the California State University and Colleges, is hereby authorized to sell all or any part of approximately 6.1 acres of land and improvements thereon located on the west side of Fifth Street, between Keyes and Martha Streets in San Jose, California, originally proposed to be used as the San Jose State University Corporation Yard.

SEC. 2. Any moneys received from the sale of real property pursuant to this act shall be paid into the Capital Outlay Fund for Public Higher Education for planning and construction of a corporation yard facility on the main campus of San Jose State University, except that costs or expenses incurred in the sale of real property pursuant to this act may be reimbursed from the proceeds of the sale.

SEC. 3. 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.

CHAPTER 1392

An act to amend Section 604 of the Corporations Code, relating to corporations.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 604 of the Corporations Code is amended to read:

604. (a) Any form of proxy or written consent distributed to 10 or more shareholders of a corporation with outstanding shares held of record by 100 or more persons shall afford an opportunity on the proxy or form of written consent to specify a choice between approval and disapproval of each matter or group of related matters intended to be acted upon at the meeting for which the proxy is solicited or by such written consent, other than elections to office, and shall provide, subject to reasonable specified conditions, that

where the person solicited specifies a choice with respect to any such matter the shares will be voted in accordance therewith.

This subdivision does not apply to any corporation with an outstanding class of securities registered under Section 12 of the Securities Exchange Act of 1934 or whose securities are exempted from such registration by Section 12(g) (2) of that act.

(b) Every form of proxy or written consent, which provides an opportunity to specify approval or disapproval with respect to any proposal, shall also contain an appropriate space marked "abstain," whereby a shareholder may indicate a desire to abstain from voting his or her shares on the proposal. A proxy marked "abstain" by the shareholder with respect to a particular proposal shall not be voted either for or against such proposal.

(c) In any election of directors, any form of proxy in which the directors to be voted upon are named therein as candidates and which is marked by a shareholder "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld shall not be voted either for or against the election of a director.

This subdivision does not apply to any corporation with an outstanding class of securities registered under Section 12 of the Securities Exchange Act of 1934 or whose securities are exempted from such registration by Section 12(g) (2) of that act.

(d) This section shall not apply to nor preclude the use of general proxies. As used in this section, a general proxy is one where specific proposals or directors to be voted upon as candidates are not set forth therein.

(e) Failure to comply with this section shall not invalidate any corporate action taken, but may be the basis for challenging any proxy at a meeting and the superior court may compel compliance therewith at the suit of any shareholder.

CHAPTER 1393

An act to amend Sections 22408 and 22451.5 of the Financial Code, relating to personal property brokers.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 22408 of the Financial Code is amended to read:

22408. Each licensee shall file a report with the commissioner annually on or before the 15th day of March, giving such relevant information as the commissioner reasonably requires concerning the business and operations during the preceding calendar year of each

licensed place of business within the state conducted by the licensee. The individual annual reports filed pursuant to this section shall be made available to the public for inspection.

SEC. 2. Section 22451.5 of the Financial Code is amended to read:

22451.5. Notwithstanding the provisions of Section 22451, every licensee who lends any sum of money may contract for and receive charges at a rate not exceeding the sum of the following:

(a) Two and one-half percent (2½%) per month on that part of the unpaid principal balance of any loan up to, including, but not in excess of two hundred twenty-five dollars ($225).

(b) Two percent (2%) per month on that portion of the unpaid principal balance in excess of two hundred twenty-five dollars ($225) up to, including, but not in excess of six hundred twenty-five dollars ($625).

(c) One and one-half percent (1½%) per month on that part of the unpaid principal balance in excess of six hundred twenty-five dollars ($625) up to, and including, but not in excess of one thousand six hundred fifty dollars ($1,650).

(d) One percent (1%) per month on any remainder of such unpaid balance in excess of one thousand six hundred fifty dollars ($1,650).

This section shall remain in effect only until January 1, 1979, and as of said date is repealed.

The references to Section 22451 of this code in Sections 22053, 22451.1, 22454.1 and 22480 of this code shall be deemed to include this section.

CHAPTER 1394

An act to amend Sections 7373, 7382, 7383, 7400, 7412, 7420, 7436, 7437, 7437.3, and 7442 of, to add Section 7323 to, and to add Article 4.5 (commencing with Section 7354) to Chapter 10 of Division 3 of, and to repeal Sections 7323 and 7376 of, the Business and Professions Code, relating to cosmetology, and making an appropriation therefor.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 7323 of the Business and Professions Code is repealed.

SEC. 2. Section 7323 is added to the Business and Professions Code, to read:

7323. This chapter does not prohibit the administration of cosmetics without compensation in connection with the

recommendation, demonstration or sale of cosmetics by any person not claiming to be a cosmetician or cosmetologist.

SEC. 3. Article 4.5 (commencing with Section 7354) is added to Chapter 10 of Division 3 of the Business and Professions Code, to read:

Article 4.5. Practice of Facials

7354. A cosmetician is any person who engages in any one or more of the following practices:

(a) Giving facials, applying makeup, giving skin care, removing hair by tweezing, depilatory or waxing or applying eyelashes to any person.

(b) Beautifying the face, neck, arms, bust or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(c) Massaging, cleaning or stimulating the face, neck, arms, bust or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(d) Removing superfluous hair from the body of any person by the use of depilatories, or waxing, or by the use of tweezers.

7354.1. A cosmetician, unless otherwise licensed by the board, is specifically prohibited from engaging in any and all of the following practices:

(a) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, singeing, bleaching, tinting, coloring, straightening, dyeing, brushing, beautifying or otherwise treating by any means the hair on the head of any person.

(b) Massaging, cleaning or stimulating the scalp, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(c) Removing superfluous hair from the body of any person by the use of electrolysis or thermolysis.

(d) Cutting, trimming, polishing, tinting, coloring, cleansing or manicuring the nails of any person.

7355. The board shall admit to examination for a license as a cosmetician, any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

(a) Who is not less than 17 years of age.

(b) Who has completed the 10th grade in the public schools of this state or its equivalent.

(c) Who has received a minimum of 600 hours of training at an approved public or private school which teaches cosmetology, or who has practiced the occupation of a cosmetician, as defined in Section 7354, full time for at least one year or the equivalent of one year full time prior to the effective date of this section. The 600 hours of training shall include theory, modeling, and practice.

02386 292175 560

7356. Notwithstanding any other provision of this chapter, the board shall grant without examination a certificate of registration as a cosmetician to any person who meets all of the following conditions:

(a) The person has practiced the occupation of a cosmetician, as defined in Section 7354, full time for at least one year, or the equivalent of one year full time, prior to the effective date of this section.

(b) The person has applied within six months after the effective date of this section to the board in proper form and paid the fee required.

A certificate of registration issued pursuant to this section shall authorize the holder thereof to practice the occupation of a cosmetician in a licensed cosmetological establishment until the certificate expires. Every certificate of registration as a cosmetician shall expire September 30, 1978, and shall not be renewable.

Any person issued a certificate of registration issued pursuant to this section as a cosmetician who, before or after the expiration of such registration, makes application to the board in proper form and pays the fee required by this chapter shall be admitted to an examination for a license as a cosmetician, as prescribed by the board.

SEC. 4. Section 7373 of the Business and Professions Code is amended to read:

7373. Every applicant for a license as a cosmetologist, electrologist, manicurist, cosmetician, cosmetology instructor, or electrology instructor satisfactorily passing the examination provided by the board to determine his fitness to engage in the practice of the occupation for which the license is sought shall receive from the board a license which entitles the holder to engage in the practice of such occupation in a licensed cosmetological establishment or school, as the case may be.

SEC. 5. Section 7376 of the Business and Professions Code is repealed.

SEC. 6. Section 7382 of the Business and Professions Code is amended to read:

7382. A cosmetological establishment shall, at all times, be in the charge of a licensed cosmetologist, except that if the operations within the establishment are limited to the practice of electrology, such establishment may, at all times, be in the charge of a licensed electrologist, and if the operations within the establishment are limited to the practice of manicuring, such establishment may, at all times, be in the charge of a licensed manicurist, and if the operations within the establishment are limited to the practice of a cosmetician, such establishment may, at all times, be in the charge of a licensed cosmetician.

SEC. 7. Section 7383 of the Business and Professions Code is amended to read:

7383. It is unlawful for any person to employ, or allow to be

employed, or permit to work, in or about a cosmetological establishment any person who performs cosmetology services and is not duly registered or licensed by the board.

Any person violating the provisions of this section is guilty of a misdemeanor.

SEC. 8. Section 7400 of the Business and Professions Code is amended to read:

7400. In every licensed school of cosmetology, a student for a license as a cosmetologist, after 200 hours of instruction, may engage, in the school and as a student, in work connected with any branch or any combination of the branches of cosmetology taught in the school upon a patron who is paying for service or materials and a student for a license as a manicurist, after 50 hours of instruction, may engage, in the school and as a student, in work connected with manicuring taught in the school upon a patron who is paying for service or materials and a student for a license as a cosmetician after 75 hours of instructions may engage, in the school and as a student, in work connected with being a cosmetician taught in the school upon a patron who is paying for service or materials.

No student may engage in any work upon a patron who is paying for service or materials until the student has had the required number of hours of instruction.

SEC. 9. Section 7412 of the Business and Professions Code is amended to read:

7412. Every registered or licensed cosmetologist, junior operator, electrologist, junior electrologist, manicurist, cosmetology instructor, cosmetician, and electrology instructor, shall, within 30 days after a change of address, as designated on the books of the board, notify the secretary of the new address, and, upon receipt of the notification, the secretary shall make the necessary changes in the register.

SEC. 10. Section 7420 of the Business and Professions Code is amended to read:

7420. Any person who fails to qualify for admission to an examination because the person's practice or study and training outside this state does not fulfill the requirements of this chapter shall receive credit for such practice outside this state or for the number of hours of study and training completed outside this state which is substantially equivalent to the study and training required in this state and shall be qualified for examination upon completion of such supplementary study and training in a licensed school in this state as the board finds necessary to substantially equal the study and training of a qualified person who has studied and trained in a licensed school in this state only.

For the purposes of this chapter, each three months of practice outside this state shall be deemed the equivalent of 100 hours of study and training required in order to qualify for a license.

SEC. 11. Section 7436 of the Business and Professions Code is amended to read:

7436. Licenses of cosmetologists, cosmetology instructors,

electrologists, electrology instructors, manicurists, cosmeticians, and cosmetological establishments expire on September 30 of each even-numbered year. An application for renewal of a license shall be filed with the board during the month of August or September of each even-numbered year, accompanied by the renewal fee prescribed by this chapter. Thereupon the board shall renew the license for the ensuing two-year period.

SEC. 12. Section 7437 of the Business and Professions Code is amended to read:

7437. Except as otherwise provided in this article, a license of a cosmetologist, cosmetology instructor, electrologist, electrology instructor, manicurist, cosmetician, or cosmetological establishment which has expired for failure of the licensee to renew within the time fixed by Section 7436 may be renewed within five years of the date of expiration upon application therefor and upon payment of the renewal fee in effect on the last preceding regular renewal date. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 7436 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 13. Section 7437.3 of the Business and Professions Code is amended to read:

7437.3. A license as a cosmetologist, cosmetology instructor, electrologist, electrology instructor, cosmetician, or manicurist which has not been renewed within five years following its expiration may not be renewed, restored, reinstated, or reissued thereafter. The holder of the expired license may apply for and obtain a new license, however, if:

(a) No fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension, and

(b) The holder pays all the fees and takes and passes the examination that would be required of the holder if the holder were then applying for the license for the first time.

SEC. 14. Section 7442 of the Business and Professions Code is amended to read:

7442. The amount of the fees required by this chapter relating to licenses as a cosmetologist, as an electrologist, as a junior operator, as a junior electrologist, as a cosmetician, or as a manicurist is that fixed by the following schedule:

(a) The fee for examination as a cosmetologist shall be set by the board annually at not more than twenty-one dollars ($21).

(b) The fee for examination as an electrologist shall be set by the board annually at not more than twenty-one dollars ($21).

(c) The fee for examination as a manicurist shall be set by the

02386 29 2235 572

board annually at not more than twelve dollars ($12).

(d) The application fee for a junior operator shall be set by the board annually at not more than five dollars ($5).

(e) The application fee for junior electrologist shall be set by the board annually at not more than five dollars ($5).

(f) The fee for examination as a cosmetician shall be set by the board annually at not more than twenty-one dollars ($21).

(g) The fee for registration as a cosmetician shall be ten dollars ($10).

(h) The renewal fee shall be set by the board at not more than ten dollars ($10) and not less than two dollars ($2).

(i) The delinquency fee is five dollars ($5).

SEC. 15. Section 7442 of the Business and Professions Code is amended to read:

7442. The amount of the fees required by this chapter relating to licenses for cosmetologists, electrologists, manicurists, cosmeticians, junior operators, junior electrologists, cosmetology instructors, electrology instructors, and provisional instructors, shall be set by the board at not more than the amounts shown in the following schedule:

(a) Cosmetologist application, examination and initial license fee shall be not more than thirty-two dollars ($32).

(b) Electrologist application, examination and initial license fee shall be not more than thirty-two dollars ($32).

(c) Manicurist application, examination and initial license fee shall be not more than twenty-one dollars ($21).

(d) Junior operator application and license fee shall be not more than eighteen dollars ($18).

(e) Junior electrologist application and initial license fee shall be not more than eighteen dollars ($18).

(f) Cosmetology instructor application, examination and initial license fee shall be not more than thirty-eight dollars ($38).

(g) Electrology instructor application, examination and initial license fee shall be not more than thirty-five dollars ($35).

(h) Provisional instructor application and license fee shall be not more than thirty-eight dollars ($38).

(i) Cosmetologist, electrologist, manicurist, cosmetician, cosmetology instructor and electrology instructor license renewal fees shall be not more than twenty dollars ($20).

(j) Cosmetician application, examination and initial license fee shall be not more than thirty-two dollars ($32).

(k) Cosmetician registration fee shall be not more than ten dollars ($10).

(*l*) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.

SEC. 16. It is the intent of the Legislature, if this bill and Assembly Bill No. 3282 are both chaptered and become effective January 1, 1977, both bills amend Section 7442 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 3282, that the amendments to Section 7442 proposed by both bills be

given effect and incorporated in Section 7442 in the form set forth in Section 15 of this act. Therefore, Section 15 of this act shall become operative only if this bill and Assembly Bill No. 3282 are both chaptered and become effective January 1, 1977, both amend Section 7442, and this bill is chaptered after Assembly Bill No. 3282, in which case Section 14 of this act shall not become operative.

CHAPTER 1395

An act to add Sections 14998.6 and 14998.7 to the Government Code, relating to the Motion Picture Development Council, and making an appropriation therefor.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

I am deleting the appropriation contained in Section 3 of Assembly Bill No 3114 Sufficient funds are already available to the Motion Picture Development Council to carry out the provisions of this bill.

With this deletion, I approve Assembly Bill No. 3114.

EDMUND G. BROWN JR., Governor

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

SECTION 1. Section 14998.6 is added to the Government Code, to read:

14998.6. The council may designate a deputy or employee who shall be exempt from civil service as provided for pursuant to the provisions of subdivision (e) of Section 4 of Article XXIV of the California Constitution.

SEC. 2. Section 14998.7 is added to the Government Code, to read:

14998.7. The council may establish fees to be paid for use of state-owned property for the purpose of making commercial motion pictures. All fees collected pursuant to this section shall be deposited in the Motion Picture Development Council Account which is hereby created in the Special Deposit Fund for disbursement by the council to reimburse the operating departments for their actual additional costs and for the support of the council.

Applications by the Motion Picture Development Council for permission to use state property for making motion pictures shall be made to the Director of General Services who shall, promptly upon receipt of such an application, contact the state agency having jurisdiction over the property specified in the application for the concurrence of such agency in the use of such property. The director shall approve or deny such applications within 30 days. The denial of such an application may be made on the basis of:

(a) State cost in permitting such use would exceed the fee

established by the Motion Picture Development Council,

(b) Such use would unduly interfere with the conduct of state business, or

(c) Failure of the permittee to provide full insurance or bond coverage, if required by the Department of General Services, sufficient to reimburse the state for any user-caused damage to the property and to provide adequate personal liability insurance coverage.

In the event that the Director of General Services takes no action on such application within 30 days, the application shall be deemed approved by the Director of General Services. If the Director of General Services determines that he is unable to make a decision within the 30 days and so notifies the Motion Picture Development Council within 25 days of receipt of the application, the director shall then have a total of 45 days from receipt of the application to approve or deny such application. In the event no action is taken by the Director of General Services within such 45-day period, the application shall be deemed approved by the Director of General Services.

Any state agency having management and control over state property, the use of which is sought by such application, shall permit such property to be used for the purpose of making motion pictures upon approval by the Director of General Services and the payment of the fee established by the Motion Picture Development Council.

SEC. 3. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Motion Picture Development Council for the purpose of implementing the provisions of this act.

CHAPTER 1396

An act to amend Sections 2892.5 and 2895 of, and to repeal Section 2892.5 of, the Business and Professions Code, relating to licensed vocational nurses, and making an appropriation therefor.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 2892.5 of the Business and Professions Code as amended by Section 5 of Chapter 923 of the Statutes of 1974 is repealed.

SEC. 2. Section 2892.5 of the Business and Professions Code as amended by Section 6 of Chapter 923 of the Statutes of 1974 is amended to read:

2892.5. (a) Each person renewing his license under the provisions of this chapter shall submit proof satisfactory to the board

that, during the preceding two-year period, he has informed himself of developments in the vocational nurse field or in any special area of vocational nurse practice, occurring since the issuance of his certificate, or the last renewal thereof, whichever last occurred, either by pursuing a course or courses of continuing education approved by the board in the vocational nurse field or relevant to the practice of such licensee, and approved by the board; or by other means deemed equivalent by the board. In lieu of submitting such proof, the license holder, if he so desires, may take and successfully complete an examination given by the board, designed to test his knowledge of developments occurring in the vocational nurse field since the issuance of his license, or the last renewal thereof, whichever last occurred.

(b) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to assure that a variety of alternative forms of continuing education are available to licensees including, but not limited to, academic studies, in-service education, institutes, seminars, lectures, conferences, workshops, extension studies, and home study programs. The standards shall take cognizance of specialized areas of practice. The continuing education standards established by the board shall not exceed 30 hours of direct participation in a course or courses approved by the board, or its equivalent in the units of measure adopted by the board.

(c) This section shall not apply to licensees during the first two years immediately following their graduation from vocational nursing school.

This section shall become operative on July 1, 1980.

SEC. 3. Section 2895 of the Business and Professions Code is amended to read:

2895. The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application shall be fixed by the board, with the approval of the director, at not more than twenty-five dollars ($25).

(b) The fee for any examination after the first is ten dollars ($10).

(c) The renewal fee shall be fixed by the board with the approval of the director at not more than twenty-five dollars ($25).

(d) The delinquency fee for failure to pay the renewal fee within the prescribed time shall be fixed by the board at not more than 50 percent of the regular renewal fee.

(e) The initial license fee is an amount equal to the renewal fee in effect on the date the application for the license is filed.

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

04104 292320 589

CHAPTER 1397

An act to amend Section 14378 of, to add Section 14379 to, and to repeal Section 14379 of, the Government Code, relating to state contracts.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 14378 of the Government Code is amended to read:

14378. Every contract subject to this chapter or Chapter 14 (commencing with Section 25200) of Division 18 of Part 4 of the Education Code shall provide that monetary claims totaling in the aggregate fifty thousand dollars ($50,000) or less on any contract and filed in accordance with procedures set forth in such contract may, at the option of the contractor or the department, be subject to determination of rights under the contract in accordance with Section 14379.

SEC. 2. Section 14379 is added to the Government Code, to read:

14379. Every contract awarded by any agency of the State of California pursuant to the provisions of this chapter or Chapter 14 (commencing with Section 25200) of Division 18 of Part 4 of the Education Code shall include in the general conditions of such contract at the time of award a clause in the following form:

"(a) Any dispute arising under or relating to the performance of this contract, which is not disposed of by agreement and is a claim subject to Section 14378 of the Government Code, shall be decided by the head of the agency awarding the contract or his duly authorized representative, who shall reduce his decision to writing in regard to the dispute and mail or otherwise furnish a copy thereof to the contractor. The decision of such party shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the contractor elects to file with the head of the agency a written appeal. Promptly upon receiving the appeal from the contractor, the head of the agency shall furnish a copy thereof to the Office of Administrative Hearings of the State of California. Pursuant to the rules and regulations adopted by the Office of Administrative Hearings pursuant to Section 14350 of the Government Code, a hearing shall be held upon the appeal. When such an appeal is taken, the preliminary decision which is the subject of the appeal shall not be pleaded as a defense, and the hearing afforded shall be a hearing de novo upon the merits. In addition, the provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of the Code of Civil Procedure shall be applicable to the hearings and the parties to the hearing shall have all the rights for discovery provided for by such provisions. However, such hearing shall be held only in the

county wherein the work was performed under such contract unless the contractor and the state agency by written stipulation filed with the Office of Administrative Hearings agree to such hearing in some other county. Pending final decision of a dispute hereunder, the contractor shall proceed diligently with the performance of the contract and in accordance with the written decision of the head of the agency or its authorized representative which is the subject of the contractor's appeal. Any such decision shall be subject to judicial review.

"(b) This "disputes" clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above. Nothing in this contract, however, shall be construed as making final the decision of any administrative official or representative on a question of law.

"(c) When the Office of Administrative Hearings conducts a hearing on an appeal pursuant to paragraph (a), the hearing officer may apportion the costs of conducting such hearing between the parties in a manner which, in his discretion, is appropriate.

"(d) Either party to this contract may, subject to the provisions of paragraph (a), seek judicial review of the decision rendered by the Office of Administrative Hearings."

SEC. 3. Section 14379 of the Government Code is repealed.

CHAPTER 1398

An act to amend Section 14378 of the Government Code, relating to state contracts.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 14378 of the Government Code is amended to read:

14378. Every contract subject to this chapter or Chapter 14 (commencing with Section 25200) of Division 18 of Part 4 of the Education Code shall provide that monetary claims totaling in the aggregate fifty thousand dollars ($50,000) or less on any contract and filed in accordance with procedures set forth in such contract may, at the option of the contractor or the department, be subject to determination of rights under the contract in accordance with Section 14379.

CHAPTER 1399

An act to amend Sections 5157, 5160, and 5169 of, to add Sections 4600.1, 4604, and 4605 to, and to repeal Section 198 of, the Civil Code, to amend the heading of Chapter 4 (commencing with Section 278) of Title 9 of Part 1 of, to add Sections 278 and 278.5 to, and to repeal Sections 278 and 279 of, the Penal Code, and to amend Sections 11478 and 11478.5 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 198 of the Civil Code is repealed.

SEC. 2. Section 4600.1 is added to the Civil Code, to read:

4600.1. In any proceeding under Title 2 (commencing with Section 4400) or Title 3 (commencing with Section 4500) where there are minor children of the marriage, and in any action for exclusive custody under Section 4603, a petition for a temporary custody order containing the statement required by Section 5158 may be included with the initial filing of the petition or action or may be filed at any time thereafter. If the parties have agreed to or reached an understanding on the custody or temporary custody of their children, a copy of the agreement or an affidavit as to their understanding shall be attached to the petition or action. As promptly as possible after such filing, the court shall, except in exceptional circumstances, enter an order awarding temporary custody in accordance with the agreement or understanding, or in accordance with any stipulation of the parties. In the absence of an agreement, understanding, or stipulation, the court may, if jurisdiction is appropriate, enter an ex parte order, set a hearing date within 20 days and issue an order to show cause on the responding party. If the responding party does not appear or respond within the time set, the temporary order may be extended as necessary, pending the termination of the proceedings.

SEC. 3. Section 4604 is added to the Civil Code, to read:

4604. (a) In any case where a petition to determine custody of a child has been filed in a court of competent jurisdiction, or where a temporary order pending determination of custody has been entered in accordance with Section 4600.1, and the whereabouts of a party in possession of the child are not known, or there is reason to believe that such party may not appear in the proceedings although ordered to appear personally with the child pursuant to Section 5160, the district attorney shall take all actions necessary to locate such party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody.

(b) In any case where a custody decree has been entered by a

court of competent jurisdiction and the child is taken or detained by another person in violation of the decree, the district attorney shall take all actions necessary to locate the person who violated the decree and the child and to assist in the enforcement of the custody decree or other order of the court.

(c) In performing the functions described in subdivisions (a) and (b), the district attorney shall act on behalf of the court and shall not represent any party to the custody proceedings.

SEC. 4. Section 4605 is added to the Civil Code, to read:

4605. (a) When the district attorney incurs expenses pursuant to Section 4604, including expenses incurred in a sister state, payment of such expenses may be advanced by the county subject to reimbursement by the state, and shall be audited by the State Controller and paid by the State Treasury according to law.

(b) The court in which the custody proceeding is pending or which has continuing jurisdiction, shall, if appropriate, allocate liability for the reimbursement of actual expenses incurred by the district attorney to either or both parties to the proceedings and such allocation shall constitute a judgment for the state for the funds advanced pursuant to this section. The county shall take reasonable action to enforce such liability and shall transmit all recovered funds to the state.

SEC. 5. Section 5157 of the Civil Code is amended to read:

5157. (1) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct the court may decline to exercise jurisdiction for purposes of adjudication of custody if this is just and proper under the circumstances.

(2) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

(3) Where the court declines to exercise jurisdiction upon petition for an initial custody decree pursuant to subdivision (1), the court shall notify the parent or other appropriate person and the prosecuting attorney of the appropriate jurisdiction in the other state. If a request to that effect is received from the other state, the court shall order the petitioner to appear with the child in a custody proceeding instituted in the other state in accordance with Section 5169. If no such request is made within a reasonable time after such notification, the court may entertain a petition to determine custody by the petitioner if it has jurisdiction pursuant to Section 5152.

(4) Where the court refuses to assume jurisdiction to modify the custody decree of another state pursuant to subdivision (2) or

pursuant to Section 5163, the court shall notify the person who has legal custody under the decree of the other state and the prosecuting attorney of the appropriate jurisdiction in the other state and may order the petitioner to return the child to the person who has legal custody. If it appears that the order will be ineffective and the legal custodian is ready to receive the child within a period of a few days, the court may place the child in a foster care home for such period, pending return of the child to the legal custodian. At the same time, the court shall advise the petitioner that any petition for modification of custody must be directed to the appropriate court of the other state which has continuing jurisdiction, or, in the event that that court declines jurisdiction, to a court in a state which has jurisdiction pursuant to Section 5152.

(5) In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorney's fees and the cost of returning the child to another state.

SEC. 6. Section 5160 of the Civil Code is amended to read:

5160. (1) The court may order any party to the proceeding who is in this state to appear personally before the court. If that party has physical custody of the child the court may order that he appear personally with the child. If the party who is ordered to appear with the child cannot be served or fails to obey the order, or it appears the order will be ineffective, the court may issue a warrant of arrest against such party to secure his appearance with the child.

(2) If a party to the proceeding whose presence is desired by the court is outside this state with or without the child the court may order that the notice given under Section 5154 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

(3) If a party to the proceeding who is outside this state is directed to appear under subdivision (2) or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

SEC. 7. Section 5169 of the Civil Code is amended to read:

5169. (1) Upon request of the court of another state the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced shall be forwarded by the clerk of the court to the requesting court.

(2) A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.

(3) Upon request of the court of another state a competent court

02549 292455 616

of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed. If the person who has physical custody of the child cannot be served or fails to obey the order, or it appears the order will be ineffective, the court may issue a warrant of arrest against such person to secure his appearance with the child in the other state.

SEC. 8. The heading of Chapter 4 (commencing with Section 278) of Title 9 of Part 1 of the Penal Code is amended to read:

CHAPTER 4. CHILD ABDUCTION

SEC. 9. Section 278 of the Penal Code is repealed.

SEC. 10. Section 278 is added to the Penal Code, to read:

278. (a) Every person, not having a right of custody, who maliciously takes, entices away, detains or conceals any minor child with intent to detain or conceal such child from a parent, guardian, or other person having the lawful charge of such child shall be punished by imprisonment in the state prison for a period of not more than 10 years, a fine of not more than ten thousand dollars ($10,000), or both, or imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both.

(b) A child who has been detained or concealed in violation of subdivision (a) shall be returned to the person having lawful charge of the child. Any expenses incurred in returning the child shall be reimbursed as provided in Section 4605 of the Civil Code. Such costs shall be assessed against any defendant convicted of a violation of this section.

SEC. 10.5. Section 278 of the Penal Code, as added by Section 10 of this act, is amended to read:

278. (a) Every person, not having a right of custody, who maliciously takes, entices away, detains or conceals any minor child with intent to detain or conceal such child from a parent, or guardian, or other person having the lawful charge of such child shall be punished by imprisonment in the state prison for two, three or four years, a fine of not more than ten thousand dollars ($10,000), or both, or imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both.

(b) A child who has been detained or concealed in violation of subdivision (a) shall be returned to the person having lawful charge of the child. Any expenses incurred in returning the child shall be reimbursed as provided in Section 4605 of the Civil Code. Such costs shall be assessed against any defendant convicted of a violation of this section.

SEC. 11. Section 278.5 is added to the Penal Code, to read:

278.5. (a) Every person who in violation of a custody decree takes, retains after the expiration of a visitation period, or conceals the child from his legal custodian, and every person who has custody of a child pursuant to an order, judgment or decree of any court which grants another person rights to custody or visitation of such child, and who detains or conceals such child with the intent to deprive the other person of such right to custody or visitation shall be punished by imprisonment in the state prison for a period of not more than one year and one day or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both.

(b) A child who has been detained or concealed in violation of subdivision (a) shall be returned to the person having lawful charge of the child. Any expenses incurred in returning the child shall be reimbursed as provided in Section 4605 of the Civil Code. Such costs shall be assessed against any defendant convicted of a violation of this section.

SEC. 12. Section 279 of the Penal Code is repealed.

SEC. 15. Section 11478 of the Welfare and Institutions Code is amended to read:

11478. All state, county, and local agencies shall cooperate in the location of parents who have abandoned, deserted, or abducted children, irrespective of whether such children are or are not receiving aid to families with dependent children, and shall on request supply the county department, any county probation officer, or the district attorney of any county in this state with all information on hand relative to the location, income, and property of such absent parents, notwithstanding any other provision of law making such information confidential, and with all information on hand relative to the location and prosecution of any person who has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child under this chapter. The county department shall use such information only for the purposes of administration of aid under this chapter, and the district attorney or county probation officer shall use it only for the purpose of enforcing the support liability of such absent parents or for locating parents and children abducted by them or for the prosecution of other persons mentioned in this section, and neither shall use the information, or disclose it, for any other purpose.

Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if such information is required to be kept confidential by the federal law or regulations relating to such program.

SEC. 16. Section 11478.5 of the Welfare and Institutions Code, as amended by Chapter 924 of the Statutes of 1975, is amended to read:

11478.5. There is in the Department of Justice a parent locator service showing, as far as is known, with respect to any parent who has deserted or abandoned any child:

(a) The full and true name of such parent together with any known aliases;

(b) Date and place of birth;

(c) Physical description;

(d) Social security number;

(e) Occupation;

(f) Military status and Veterans Administration or military service serial number;

(g) Last known address and date thereof;

(h) Driver's license number;

(i) Any police record; and

(j) Any further information that may be of assistance in locating the alleged abducting parent parent.

To effectuate the purposes of this section, the Attorney General shall, to the extent necessary, utilize the parent locator service in the Department of Health, Education, and Welfare, and, may request and shall receive from departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the Justice Department and the local public agencies to carry out their powers and duties to locate such parents and to enforce their liability for the support of their children and to locate and return abducted children and their parents. In addition the district attorneys shall submit to the Attorney General a uniform statistical report each month summarizing case and collection activity in their counties in connection with child support enforcement. The Attorney General shall adopt a uniform report form to be used by the district attorneys in submitting this monthly report. The purpose of this uniform monthly report is to facilitate the analysis of each county's performance in child support activities.

Any records established pursuant to the provisions of this section shall be available only to district attorneys, probation departments, state locator services, the federal parent locator service, and courts having jurisdiction in support, custody, abduction, or abandonment proceedings or actions.

The Department of Justice, in consultation with the Department of Benefit Payments, shall promulgate rules and regulations to facilitate maximum and efficient use of such locator service.

This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 17. It is the intent of the Legislature, if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills affect Section 278 of the Penal Code, and this bill is chaptered after Senate Bill No. 42, that Section 278 of the Penal Code, as added by Section 10 of this act, shall remain operative only until the operative date of Senate Bill No. 42, and that on the operative date Senate Bill No. 42 Section 278 of the Penal Code, as added by Section 10 of this act, be amended in the form set forth in Section 10.5 of this act to incorporate the changes in Section 278 proposed by

Senate Bill No. 42. Therefore, Section 10.5 of this act shall become operative only if this bill and Senate Bill No. 42 are both chaptered and become effective January 1, 1977, both bills affect Section 278, and this bill is chaptered after Senate Bill No. 42, in which case Section 10.5 of this act shall become operative on the operative date of Senate Bill No. 42.

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 contains a revenue source which may be utilized by local governments to cover the cost of the mandate.

CHAPTER 1400

An act to add Section 34270.1 to the Health and Safety Code, relating to housing authorities.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 34270.1 is added to the Health and Safety Code, to read:

34270.1. The provisions of this section apply to an authority in a city and county.

Notwithstanding any other provision of law to the contrary, including Section 34272, the mayor shall appoint five persons as commissioners of the authority in a city and county. The mayor shall appoint two additional commissioners who are tenants of the authority. One such tenant commissioner shall be over 62 years of age if the authority has tenants of such age. Appointments shall not be subject to confirmation by the governing body of the city and county. All commissioners appointed on and after January 1, 1977, shall be residents of the city and county, at the time of their appointment and during their term of office. A failure to maintain residence in the city and county shall cause the office to be vacant. Vacancies in office for whatever reason, including but not limited to, the expiration of a term, shall be filled by the mayor as provided for in this section.

03154 292540 633

CHAPTER 1401

An act to amend Section 386 of, to add Sections 225, 317, 387, 387.1, 705, 706, and 10007.5 to, and to repeal Sections 225, 386, and 387 of, the Elections Code, relating to elections.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 225 of the Elections Code is repealed.

SEC. 1.2. Section 225 is added to the Elections Code, to read:

225. Within 60 days of the direct primary election, voter lists reflecting the cancellation of voters at the direct primary shall be made available to candidates at that election.

SEC. 1.3. Section 317 is added to the Elections Code, to read:

317. Within 60 days of the direct primary election, voter lists reflecting the cancellation of voters at the direct primary shall be made available to candidates at that election.

1.4. 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 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.

SEC. 2. Section 387 of the Elections Code is repealed.

SEC. 3. Section 387 is added to the Elections Code, to read:

387. Within 45 days of the day of the direct primary and statewide general elections, the clerk shall cancel the original and duplicate affidavits of registration for each voter who failed to vote at the previous direct primary or previous statewide general election, whichever is later, and for whom he receives an address correction requested or any other postal notice which indicates that the voter no longer resides within the county or has moved and left no forwarding address. If such a notice indicates the voter has moved within the county, the clerk shall notify the voter that the voter's affidavit of registration shall be corrected accordingly, unless the clerk is notified by the voter within 30 days after mailing of such notice that the voter does not desire to be registered at the new address, and wishes to use the old or another address within the county.

If such notice indicates the voter has moved outside the county, the clerk shall notify the voter that the voter's affidavit of registration shall be canceled unless the clerk is notified by the voter within 30 days after mailing of such notice that the voter desires to use the old or another address within the county. Within 15 days after the day of the direct primary or statewide general election, the clerk shall mail the notices required by this section.

The notice sent by the clerk to the voter shall be a double postcard

and the return notice to the clerk shall be prepaid. The notice shall be uniform in all counties, according to regulations promulgated by the Secretary of State.

If a voter who has moved within the county wishes his registration affidavit changed to the new address within the county as indicated by the post office he need not return the notice card to the clerk.

SEC. 3.1. Section 387.1 is added to the Elections Code, to read:

387.1. Within 60 days of the day of the direct primary or statewide general election, the clerk shall cancel the original and duplicate affidavits of registration for each voter who failed to vote at the previous direct primary or previous statewide general election, whichever is later, and who is registered to vote pursuant to the provisions contained in Chapter 5 (commencing with Section 800) of this division.

Within 15 days after the day of the direct primary or statewide general election, the clerk shall mail to each voter affected by this section a notice notifying the voter that the voter's affidavit of registration shall be canceled unless the clerk is notified by the voter within 45 days after mailing of such notice that the voter intends to remain registered and desires to use the old or another overseas address. Such notice shall be mailed to the voter's overseas address as it appears in his or her affidavit of registration.

The notice sent by the clerk to the voter shall be a double postcard and the return notice to the clerk shall be prepaid. The notice shall be uniform in all counties, according to regulations promulgated by the Secretary of State.

3.2. Section 705 is added to the Elections Code, to read:

705. On completion of the canvass of the returns of the general election the county clerk shall 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.

SEC. 3.3. Section 706 is added to the Elections Code, to read:

706. Within 45 days of the day of the direct primary or statewide general election, the clerk shall cancel the original and duplicate affidavits of registration for each voter who failed to vote at the previous direct primary or previous statewide general election, whichever is later, and for whom he receives an address correction requested or any other postal notice which indicates that the voter no longer resides within the county or has moved and left no forwarding address. If such a notice indicates the voter has moved within the county, the clerk shall notify the voter that the voter's affidavit of registration shall be corrected accordingly, unless the clerk is notified by the voter within 30 days after mailing of such notice that the voter does not desire to be registered at the new address, and wishes to use the old or another address within the county.

If such notice indicates the voter has moved outside the county, the clerk shall notify the voter that the voter's affidavit of registration shall be canceled unless the clerk is notified by the voter within 30

days after mailing of such notice that the voter desires to use the old or another address within the county. Within 15 days after the day of the direct primary or statewide general election, the clerk shall mail the notices required by this section.

The notice sent by the clerk to the voter shall be a double postcard and the return notice to the clerk shall be prepaid. The notice shall be uniform in all counties, according to regulations promulgated by the Secretary of State.

If a voter who has moved within the county wishes his registration affidavit changed to the new address within the county as indicated by the post office he need not return the notice card to the clerk.

SEC. 4. Section 10007.5 is added to the Elections Code, to read:

10007.5. When mailing sample ballots for the direct primary election pursuant to Section 10007, the county clerk shall include the return address of the county clerk's office, and shall affix to the outside portion of the envelope the following statement: "Address Correction Requested."

SEC. 5. Section 317 as added to the Elections Code by Section 1.3 of this bill shall become operative only if Assembly Bill No. 2606 of the 1975–76 Regular Session is enacted, in which case Section 225 as added to the Elections Code by Section 1.2 of this bill and Section 317 as added to the Elections Code by Assembly Bill No. 2606 shall not become operative.

SEC. 6. Sections 705 and 706 as added to the Elections Code by Sections 3.2 and 3.3 of this bill shall become operative only if Assembly Bill No. 2606 of the 1975–76 Regular Session is enacted, in which case Section 386 of the Elections Code as amended by Section 1.4 of this bill is repealed and Section 387 as added to the Elections Code by Section 3 of this bill shall not become operative.

SEC. 7. Any state-mandated local costs brought about by this bill shall not occur until after the 1976–77 fiscal year and shall be subject to reimbursement in the Budget Act for the appropriate fiscal year.

CHAPTER 1402

An act to amend Sections 15451 and 15454 of the Education Code, relating to school buildings.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 15451 of the Education Code is amended to read:

15451. The Department of General Services under the police power of the state shall supervise the design and construction of any school building or, if the estimated cost exceeds twenty thousand

dollars ($20,000), the reconstruction or alteration of or addition to any school building, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building regulations published in the State Building Standards Code, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a school district to perform work with its own forces in excess of the limitations set forth in Sections 15951 and 15957.

SEC. 2. Section 15454 of the Education Code is amended to read:

15454. The Department of General Services shall pass upon and approve or reject all plans for the construction or, if the estimated cost exceeds twenty thousand dollars ($20,000), the alteration of any school building. To enable it to do so, the governing board of each school district and any other school authority before adopting any plans for such school building shall submit the plans to the Department of General Services for approval, and shall pay the fees prescribed in this article (commencing at Section 15451).

Where the estimated cost of an alteration exceeds ten thousand dollars ($10,000) but does not exceed twenty thousand dollars ($20,000), a structural engineer shall examine the proposed project to determine if it is a nonstructural alteration or a structural alteration. If he determines that the project is a nonstructural alteration, he shall prepare a statement so indicating. If he determines that the project is structural, he shall prepare plans and specificiations for the project and shall observe the work of construction. A copy of the engineer's report stating that the work does not affect structural elements, or a copy of the plans and specifications for structural work, as the case may be, shall be filed with the Department of General Services.

CHAPTER 1403

An act to amend Section 5100 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 5100 of the Labor Code is amended to read:

5100. At the time of making its award, or at any time thereafter, the appeals board, on its own motion either upon notice, or upon application of either party with due notice to the other, may commute the compensation payable under this division to a lump sum and order it to be paid forthwith or at some future time if any

of the following conditions appear:

(a) That such commutation is necessary for the protection of the person entitled thereto, or for the best interest of the applicant.

(b) That commutation will avoid inequity and will not cause undue expense or hardship to the applicant.

(c) That the employer has sold or otherwise disposed of the greater part of his assets or is about to do so.

(d) That the employer is not a resident of this state.

CHAPTER 1404

An act to amend Sections 6319 and 6600 of the Labor Code, relating to occupational safety.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 6319 of the Labor Code is amended to read:

6319. (a) If, after an inspection or investigation, the division issues a citation under this chapter, it shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified mail of the citation, and that the employer has 15 working days from receipt of the notice within which to notify the appeals board that he wishes to contest the citation for any reason set forth in Section 6600.

(b) Any employer served by certified mail with a notice of civil penalty may appeal to the appeals board within 15 working days from receipt of that notice for any reason set forth in Section 6600. If the citation is issued for a violation involving the condition or operation of any machine, device, apparatus, or equipment, and a person other than the employer is obligated to the employer to repair the machine, device, apparatus, or equipment and to pay any penalties assessed against the employer, such other person may appeal to the appeals board within 15 working days of the receipt of the citation by the employer for any reasons set forth in Section 6600.

(c) The director shall promulgate regulations covering the assessment of civil penalties under this chapter which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The size of the business of the employer being charged.

(2) The gravity of the violation.

(3) The good faith of the employer.

(4) The history of previous violations.

(d) The employer shall not be liable for a civil penalty under this part for any citation issued by a division representative providing consulting services pursuant to Sections 6354 and 6355.

SEC. 2. Section 6600 of the Labor Code is amended to read:

6600. Any employer served with a citation or notice pursuant to Section 6317, or a notice of proposed penalty under this part, or any other person obligated to the employer as specified in subdivision (b) of Section 6319, may appeal to the appeals board within 15 working days from the receipt of such citation or such notice with respect to violations alleged by the division, abatement periods, amount of proposed penalties, and the reasonableness of the changes required by the division to abate the condition.

CHAPTER 1405

An act to amend Section 2786.6 of the Business and Professions Code, relating to nursing schools.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 2786.6 of the Business and Professions Code is amended to read:

2786.6. The board shall deny the application for accreditation made by, and shall revoke the accreditation given to, any school of nursing which:

(a) Does not give to student applicants credit, in the field of nursing, for previous education and the opportunity to obtain credit for other acquired knowledge by the use of challenge examinations or other methods of evaluation; or,

(b) Is operated by a community college and discriminates against an applicant for admission to a school solely on the grounds that the applicant is seeking to fulfill the units of nursing required by Section 2736.6.

The board shall prescribe, by regulation, the education for which credit is to be given and the amount of credit which is to be given for each type of education. The word "credit," as used in the preceding sentence, is limited to credit for licensure only. The board is not authorized to prescribe the credit which an accredited school of nursing shall give toward an academic certificate or degree.

CHAPTER 1406

An act to amend Section 830.3 of the Penal Code, relating to peace officers.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 830.3 of the Penal Code as amended by Chapter 42 of the Statutes of 1976 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) (1) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code are peace officers. The authority of any such peace officers 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.

(2) Other deputies of the Department of Fish and Game deputized pursuant to Section 851 of the Fish and Game Code, and county fish and game wardens deputized pursuant to Section 875 of such code, are peace officers, provided that the exclusive duty of such deputies or county fish and game wardens shall be the enforcement of the provisions of the Fish and Game Code and the regulations made pursuant thereto.

(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) All investigators of the State Department of Health are peace officers solely for the purpose of obtaining and executing search warrants.

(q) The authority of any peace officer listed in subdivisions (c) through (p), 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. 2. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties; and that there be no change in the status of individual peace officers or classes of peace officers for purposes of retirement, workmen's compensation or similar injury or death benefits, or other employee benefits.

SEC. 3. Section 830.3 of the Penal Code, as amended by Chapter 42 of the Statutes of 1976, 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.

(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) (1) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code are peace officers. The authority of any such peace officers 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.

(2) Other deputies of the Department of Fish and Game deputized pursuant to Section 851 of the Fish and Game Code, and county fish and game wardens deputized pursuant to Section 875 of such code, are peace officers, provided that the exclusive duty of such deputies or county fish and game wardens shall be the enforcement of the provisions of the Fish and Game Code and the regulations made pursuant thereto.

(f) The State Forester and such employees or classes of employees of the Division of Forestry of the Department of Conservation and voluntary firewardens 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) All investigators of the State Department of Health are peace officers solely for the purpose of obtaining and executing search warrants.

(q) The authority of any peace officer listed in subdivisions (d) through (p), 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. 4. It is the intent of the Legislature, if this bill and Senate Bill No. 1573 are both chaptered and become effective January 1, 1977, both bills amend Section 830.3 of the Penal Code, and this bill is chaptered after Senate Bill No. 1573, that the amendments to Section 830.3 proposed by both bills be given effect and incorporated in Section 830.3 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill No. 1573 are both chaptered and become effective January 1, 1977, both amend Section 830.3, and this bill is chaptered after Senate Bill No. 1573, in which case Section 1 of this act shall not become operative.

CHAPTER 1407

An act to amend Sections 11470 and 11474 of, and to add Sections 11490, 11491, 11491.1, 11491.2, 11491.3, 11491.4, 11491.5, 11491.6, 11491.7, 11492, 11493, 11493.1, 11494, 11495, and 11498 to, the Health and Safety Code, relating to controlled substances, and making an appropriation therefor.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 11470 of the Health and Safety Code is amended to read:

11470. The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

(b) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

(c) All property which is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

(e) The interest of any registered owner of a boat, airplane, or any

vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, or a vehicle which may be lawfully driven upon the highway with a class 3 or class 4 license, as prescribed in Section 12804 of the Vehicle Code, used, in direct relation to the particular offense for which the owner is arrested and convicted, to unlawfully transport for sale any controlled substance.

SEC. 2. Section 11474 of the Health and Safety Code, is amended to read:

11474. All seizures under provisions of this chapter, except seizures of vehicles, boats, or airplanes, shall, upon conviction of the owner or defendant, be ordered destroyed by the judge of the court in which conviction was had and the judge shall turn all such evidence over to the Attorney General for destruction or disposition.

SEC. 3. Section 11490 is added to the Health and Safety Code, to read:

11490. Any peace officer of this state, upon making or attempting to make an arrest for a violation of Section 11351, 11352, 11355, 11359, 11360, 11378, or 11379, insofar as the offense involves sale, transportation for sale, or possession for sale, may seize any vehicle, boat, or airplane used to unlawfully transport for sale any controlled substance. If he does not hold the vehicle, boat, or airplane for evidence, he shall immediately deliver such vehicle, boat, or airplane to the State Department of Justice to be held as evidence until a forfeiture has been declared or a release ordered; otherwise he shall return the vehicle, boat, or airplane to the registered owner.

SEC. 4. Section 11491 is added to the Health and Safety Code, to read:

11491. (a) Within 15 days after such seizure, if the Department of Justice determines that the factual circumstances do not warrant that the vehicle, boat, or airplane come within subdivision (e) of Section 11470, or if for any other reason it decides not to seek forfeiture, it shall return the vehicle, boat, or airplane to the arresting officer who shall return it to the registered owner. If the Department of Justice does not return the vehicle, boat, or airplane to the arresting officer, it shall cause an investigation to be made as to any claimant to the vehicle, boat, or airplane whose right, title, interest, or lien is of record in the Department of Motor Vehicles or appropriate federal agency. Except as provided in subdivision (b), if the department finds that any person, other than the registered owner, is the legal owner thereof, and such ownership interest did not arise subsequent to the date and time of arrest or seizure of the vehicle, boat, or airplane, it shall forthwith send a notice of the seizure to such legal owner at his address appearing on the records of the Department of Motor Vehicles or appropriate federal agency. Notice of seizure and intended forfeiture proceedings shall be filed with the county clerk and shall be served on all owners whose interest will be affected thereby.

(b) A bona fide purchaser without notice of the arrest or seizure whose interest was acquired subsequent to the arrest or seizure shall

be entitled to participate in the forfeiture proceedings to establish his claim.

(c) An assignee, purchaser, or holder in due course who had notice of the arrest or seizure at the time he acquired his interest and who sells, assigns, or conveys such interest is guilty of a fraudulent conveyance as provided for in Section 531 of the Penal Code, and civilly liable under Section 3439.07 of the Civil Code.

SEC. 5. Section 11491.1 is added to the Health and Safety Code, to read:

11491.1. Actual notice shall be given to each owner whose right, title, or interest is of record in the Department of Motor Vehicles or appropriate federal agency, by mailing a copy of the notice by registered mail to the address as given upon the records of the Department of Motor Vehicles or appropriate federal agency; and to each owner whose name and address is known, to the last known address of the owner.

All other owners, whose addresses are unknown, but who are believed to have an interest in the vehicle, boat, or airplane, by one publication in a newspaper of general circulation in the county where the seizure was made.

All notices shall set forth the time within which an answer is required to be filed pursuant to Section 11491.2.

SEC. 6. Section 11491.2 is added to the Health and Safety Code, to read:

11491.2. Within 10 days after receipt of actual notice or within 30 days of the publication of the notice, any owner of any right, title, or interest in, or lien upon, a seized vehicle, boat, or airplane may file a verified answer to the fact of the use of the vehicle, boat, or airplane alleged in the notice of seizure and of the intended forfeiture proceeding; and any person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract may file a verified answer to the facts set forth in the notice and setting forth, if such be the fact, that he acquired his interest prior to the date of seizure without actual knowledge that the vehicle, boat, or airplane was to be used in the manner set forth in subdivision (e) of Section 11470.

SEC. 7. Section 11491.3 is added to the Health and Safety Code, to read:

11491.3. No extensions of time shall be granted for the purpose of filing the answer.

SEC. 8. Section 11491.4 is added to the Health and Safety Code, to read:

11491.4. If, at the end of the times set forth in Section 11491.2, there is no verified answer on file, the court, upon motion, shall declare the vehicle, boat, or airplane forfeited to the state upon conviction as provided in Section 11492. Notwithstanding any other provision of law, a certified copy of said declaration of forfeiture, duly filed with the Department of Motor Vehicles or appropriate federal agency, shall constitute authority for the state to convey clear title

to the vehicle, boat, or airplane to any purchaser thereof in the manner provided in Sections 11493.1 and 11494.

SEC. 9. Section 11491.5 is added to the Health and Safety Code, to read:

11491.5. If a verified answer is filed, the forfeiture proceeding shall be set for hearing on a day not less than 30 days therefrom, and the proceeding shall have priority over other civil cases.

SEC. 10. Section 11491.6 is added to the Health and Safety Code, to read:

11491.6. Notice of the hearing shall be given in the same manner as provided in Section 11491.1.

SEC. 11. Section 11491.7 is added to the Health and Safety Code, to read:

11491.7. At the hearing, the state shall have the burden of establishing that the owner of the vehicle, boat, or airplane had knowledge that the vehicle, boat, or airplane would be used for a violation of this chapter. Any person who has a verified answer on file, and any person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract may show that he acquired his title or interest without actual knowledge that the vehicle, boat, or airplane was to be used for the purposes for which forfeiture is permitted.

SEC. 12. Section 11492 is added to the Health and Safety Code, to read:

11492. No legal or registered title or interest in the vehicle, boat, or airplane shall be affected by the forfeiture decree under this article if the owner of the interest proves that he had no knowledge that the vehicle, boat, or airplane was used for the purpose charged. No forfeiture shall be ordered unless and until a conviction is had for an offense set forth in Section 11490.

SEC. 13. Section 11493 is added to the Health and Safety Code, to read:

11493. The forfeiture hearing may be continued until after a verdict of guilt on the related charges has been decided. The forfeiture hearing shall be conducted in accordance with Sections 600 to 630, inclusive, of the Code of Civil Procedure if a trial by jury, and by Sections 631 to 636, inclusive, of the Code of Civil Procedure if by court. If the court or jury finds that the vehicle, boat, or airplane was not used in violation of this chapter, the court shall order the vehicle, boat, or airplane released to the person entitled thereto.

If the court or jury does not so find but does find that a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract acquired his interest without actual knowledge that the vehicle, boat, or airplane was to be used for a purpose for which forfeiture is permitted, and if the amount due him is equal to, or in excess of, the appraised value of the vehicle, boat, or airplane, the court shall order the vehicle, boat, or airplane released to him. If the amount due him is less than the appraised value of the vehicle, boat, or airplane, he may pay to the Department

of General Services the amount of the registered owner's equity, which shall be deemed to be the difference between the appraised value and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon such payment, the state shall relinquish all claims to the vehicle, boat, or airplane. If the holder of the interest elects not to make such payment to the Department of General Services, the vehicle, boat, or airplane shall be deemed forfeited to the Department of General Services and the ownership certificate shall be forwarded. Appraised value is to be determined as of the date judgment is entered on a wholesale basis either by agreement between the legal owner and the Department of General Services, or if such persons cannot agree, then by the inheritance tax appraiser for the county in which the action is brought.

SEC. 14. Section 11493.1 is added to the Health and Safety Code, to read:

11493.1. If the amount due to a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract is less than the value of the vehicle, boat, or airplane, and the person elects not to make payment to the Department of General Services, the vehicle, boat, or airplane shall be sold at public auction by the Department of General Services.

SEC. 15. Section 11494 is added to the Health and Safety Code, to read:

11494. The Department of General Services shall publish a notice of the sale by one publication in a newspaper published and circulated in the city, community, or locality where the sale is to take place.

SEC. 16. Section 11495 is added to the Health and Safety Code, to read:

11495. In all cases where a vehicle, boat, or airplane seized by the Department of Justice is forfeited to the state and turned over to and sold by the Department of General Services, the proceeds of the sale shall be distributed as follows, in the order indicated:

(a) To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the vehicle, boat, or airplane, if any, up to the amount of his interest in the vehicle, boat, or airplane, when the court declaring the forfeiture orders a distribution to such person.

(b) The balance, if any, to accumulate, and from time to time, as the proceeds become sufficient, to be distributed:

1. To the Department of General Services for all expenditures made or incurred by it in connection with the sale, including expenditure for any necessary repairs, storage, or transportation, of any vehicle, boat, or airplane seized under this article.

2. To the Attorney General for all expenditures made or incurred by him in connection with the forfeiture proceedings of any vehicle, boat, or airplane seized under this article, including, but not limited to, expenditures for witness fees, reporters' fees, transcripts, printing, traveling, and investigation.

3. To the state for all expenditures for traveling, investigation, storage, and other expenses made or incurred by the Department of Justice after the seizure, and in connection with the forfeiture of any vehicle, boat, or airplane seized under this article.

4. The remainder, if any, to the State Treasury, for credit to the General Fund.

SEC. 17. Section 11498 is added to the Health and Safety Code, to read:

11498. The provisions of this division relative to forfeiture of vehicles, boats, or airplanes shall not apply to a common carrier, or to an employee acting within the scope of his employment in the enforcement of this division.

SEC. 18. Nothing contained in this act shall be interpreted to modify or amend any law or court ruling dealing with a person's rights under Section 1, 13, or 24 of Article I of the California Constitution or the fourth amendment to the United States Constitution.

CHAPTER 1408

An act to add Section 22754.1 to the Government Code, relating to the Meyers-Geddes State Employees' Medical and Hospital Care Act.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 22754.1 is added to the Government Code, to read:

22754.1. As used in this part, unless the context otherwise requires, the term "employee" includes any judge of a municipal court, and the terms "employer" and "contracting agency" with respect to any such judge enrolled in a health benefits plan include the county in which the municipal court is located, provided that adoption of a resolution under Section 22850 shall not be required. The state is not obligated to make any contribution to health benefit plans for active and retired municipal court judges. A municipal court judge may elect to come under the provisions of this part only within 90 days of assuming office for the first time as such a judge. If a municipal court judge elects to come under the provisions of this part, the county employing such judge shall contribute to the State Employees' Contingency Reserve Fund such sums as it would have otherwise contributed to a health benefit plan provided for county employees, unless the municipal court judge elects to enroll under the county health benefit plan. Such contribution shall be applied first to the contribution required of it as an employer under Section 22831 and any remainder shall be applied to the contribution

required under Section 22825 and 22825.6. The municipal court judge whether enrolled as an employee or annuitant shall contribute the cost of such enrollment plus the amount required of an employer under Section 22831 less the amount, if any, contributed by his county. A county shall not be required to contribute any portion of the cost of a health benefits plan under this part for a judge after retirement unless the health benefits plan provided for county employees provides such coverage.

SEC. 2. Municipal court judges holding office on the effective date of this act may elect to come under its provisions within 90 days after its operative date.

CHAPTER 1409

An act to amend Sections 1136, 1165, and 1190 of the Harbors and Navigation Code, relating to pilots.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 1136 of the Harbors and Navigation Code is amended to read:

1136. (a) Every pilot licensed pursuant to the terms of this division shall take an oath of office in the manner prescribed by law and shall, once each month, on forms furnished by the board, render a verified account to the board of all moneys received by him as a result of pilotage services, or by any other person for him, or on his account; and he shall pay to the board, exclusive of the amounts received that are attributable to the increase in pilotage rates and the minimum charge for bar pilotage made by the amendments of Section 1190 enacted at the 1975–76 Regular Session of the Legislature, 5 percent of all bar pilotage fees, or such lesser percentage as is established by the board, with the approval of the Department of Finance, in full compensation of the board for its official services, for the services of its secretary and treasurer, and for all its incidental expenses.

(b) It is the intent of the Legislature that moneys received that are attributable to the increase in pilotage rates and the minimum charge for bar pilotage made by the amendments of Section 1190 enacted at the 1975–76 Regular Session of the Legislature be used for increased operating and boatbuilding expenses incurred by pilots. It is further the intent of the Legislature that an accounting of such moneys shall be made by every pilot, at no cost to the state, to the board, or to any interested party, upon request.

SEC. 2. Section 1165 of the Harbors and Navigation Code is amended to read:

1165. (a) In addition to and concurrently with the basic pilotage rate described in Section 1190, a charge shall be levied for pilotage services at a rate necessary to provide the benefits to be paid out pursuant to the pension plan. The additional rate shall be determined as follows:

(1) On December 1, of each year, the number of persons eligible to receive benefits under the plan, their identities, the amount each will be entitled to receive, and the total amount to be paid out to all such persons during each month of the next benefit year, shall be determined by the fiduciary agent.

(2) After the total amount to be paid out monthly under the plan has been determined, the rate necessary to provide that amount each month shall be calculated. The rate shall be based upon the volume of shipping, in gross registered tons, handled by pilots licensed under this division for the calendar year ending the previous September 30. The rate shall be expressed as mills per gross registered ton and shall be calculated to the nearest one-hundredth of a mill.

(3) Based on the foregoing calculations, if the total amount to be paid out yearly will exceed two hundred thousand dollars ($200,000), the rate shall be established so that the pension plan will produce maximum revenues of two hundred thousand dollars ($200,000) per year and the benefits shall be reduced accordingly.

(b) The rate determined pursuant to paragraphs (1), (2), and (3) of subdivision (a) shall become effective the first day of the following calendar year and shall be in effect throughout that year.

(c) Revenues for any month or year are the amounts to be received pursuant to the pension plan for pilotages during that month or year.

(d) Benefits pursuant to the new rate shall be paid commencing in February of each year and shall continue through and include January of the following year. The period during which benefits are paid is the benefit year.

SEC. 3. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. Every vessel spoken inward or outward bound, shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(a) Seven dollars and thirty-five cents ($7.35) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 13 mills ($0.013) per high gross registered ton.

(b) A minimum charge for bar pilotage shall be three hundred dollars ($300) for each vessel piloted.

(c) The vessel's deepest draft shall be the maximum draft attained, on a still water basis, at any part of the vessel during the course of such transit inward or outward.

CHAPTER 1410

An act to add Section 31104 to, the Corporations Code, relating to retail gasoline stations.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 31104 is added to the Corporations Code, to read:

31104. There shall be exempted from the provisions of Chapter 2 (commencing with Section 31110) of this part the offer and sale of a franchise if the franchisor:

(a) Is a petroleum corporation or distributor who is a wholesale distributor or marketer of petroleum products; doing business continuously for the past five years and who does not require an advance of funds in the nature of a fee or lease for such franchise agreements; not engaged in the production or the refining of petroleum; and

(b) Complies with the provisions of subdivision (c) of Section 31101.

(c) For the purposes of subdivision (a) of this section:

(1) A "wholesale distributor" or "marketer" means any entity which, for wholesale, purchases or receives through transfer, or otherwise obtains, by consignment or otherwise, refined petroleum products and resells or otherwise transfers such products, without substantially changing their form, to other purchasers.

(2) An "advance of funds" means (A) a fee or lease for a franchise agreement, and (B) does not mean rent for the possession or use, or both, of premises or property, the purchase of inventory for resale or supplies, utility deposits, and other consideration or expenditures for the formation or operation, or both, of a wholesale distributor or marketer entity.

CHAPTER 1411

An act to add Section 904.8 to the Penal Code, relating to grand juries.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 904.8 is added to the Penal Code, to read:

904.8. In any county having a population of more than 558,000 but less than 600,000 as established by Section 28020 of the Government Code, the presiding judge of the superior court, upon his own motion, or upon application by either the Attorney General or district attorney setting forth the need for one additional grand jury and after a finding by the court upon such application, for good cause shown, that the existing grand jury is unable for any reason to inquire into matters which are subject to grand jury inquiry, may order and direct the drawing and impanelment at any time of one additional grand jury. Any such additional grand jury may serve for a period of one year from the date of impanelment, but may be discharged at any time within such period by order of the presiding judge.

Upon the impanelment of such additional grand jury and during the term of its existence, the original grand jury shall retain exclusive jurisdiction to inquire into all public offenses, and the additional grand jury shall have exclusive jurisdiction over all matters within grand jury jurisdiction under the law, except the inquiry into public offenses and the presentation of indictments.

Upon the discharge of such additional grand jury, the original grand jury shall regain entire jurisdiction over all matters of grand jury responsibility.

CHAPTER 1412

An act to amend Sections 13835.2, 13846.8, 14210, 14214, 14220.1, 14220.5, and 14260 of, and to add Sections 13846.5, 14210.5, 14214.1, and 14214.3 to, and to repeal Section 13846.5 of, the Education Code, relating to the State Teachers' Retirement Law.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 13835.2 of the Education Code is amended to read:

13835.2. "Disability" or "disabled" means any medically determinable physical or mental impairment which is permanent or which can be expected to last continuously for at least 12 months which prevents a member from performing his usual duties for his employer; or the duties of a comparable level for which he is qualified by education, training and experience. Any impairment from a willful self-inflicted injury shall not constitute a disability.

SEC. 2. Section 13846.5 of the Education Code is repealed.

SEC. 3. Section 13846.5 is added to the Education Code, to read:

13846.5. "Projected salary" means a 2-percent increase compounded annually applied to the salary used in computing the

disability or family allowance. When computing a family allowance under paragraphs (3) and (4) of subdivision (e) of Section 14186, and Section 14220.7, projected salary shall be computed from July 1st of the year of death or disability to the June 30th prior to age 60. If death occurred when the member was receiving a disability allowance, projected salary shall be computed from the first day of July of the year in which the disability allowance was effective to the June 30th prior to age 60. When computing a family allowance under paragraphs (1) and (2) of subdivision (e) of Section 14186, when death occurs while the member was on disability, projected salary shall be computed from July 1st of the year of disability to the June 30th prior to death.

SEC. 4. Section 13846.8 of the Education Code is amended to read:

13846.8. "Projected service" means the credited service plus the service which would have been earned to age 60 had the member continued to earned credited service at the same rate as the highest of any one of the three school years immediately preceding death or the effective date of disability.

SEC. 5. Section 14210 of the Education Code is amended to read:

14210. A retirement allowance shall become effective upon any date designated by the member, provided:

(a) An application for retirement allowance is filed on a form provided by the system, which is executed no earlier than six months before the effective date of retirement,

(b) The designated effective date is later than the last day of service for which salary is payable to the member,

(c) The designated date does not fall on a weekend or holiday contiguous with the last day of service for which salary is paid to the member,

(d) The designated date is no earlier than the first day of the month in which the application is received by the system in Sacramento,

(e) The designated date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

SEC. 6. Section 14210.5 is added to the Education Code, to read:

14210.5. A disability allowance shall become effective upon any date designated by the member, provided:

(a) An application for disability allowance is filed on a form provided by the system, which is executed no earlier than the day following the last day on which service is performed,

(b) The designated effective date is later than the last day of service for which salary is payable to the member,

(c) The designated date does not fall on a weekend or holiday contiguous with the last day of service for which salary is paid to the member,

(d) The designated date is no earlier than the first day of the month in which the application is received by the system in Sacramento,

03918 293375 728

(e) The designated date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

SEC. 7. Section 14214 of the Education Code is amended to read:

14214. The board may authorize payment of a disability allowance to any member who is qualified upon application by the member, his guardian or conservator, or his employer, if such application is made:

(a) While the member is employed but not performing services in a position requiring membership in this system, or

(b) While he is physically or mentally incapacitated for performance of his duty and such incapacity has been continuous from the last day for which compensation was paid to him, or

(c) While he is on a leave of absence without compensation, granted for reason other than mental or physical incapacity for performance of his duty, and within four months after the last day of employment for which compensation was paid, or within 12 months while on an official district leave to study at an approved college or university, or

(d) Within four months after the termination of the member's employment in a position requiring membership in this system provided, first, that such application was not made under the provisions of subdivision (b) and, second, that such application was not made more than four months after the last day for which compensation was paid to him.

(e) A member with eligible children who becomes disabled prior to age 60 and whose sick leave will extend beyond age 60 may be awarded a disability allowance with an effective date after age 60 if application is filed prior to attaining age 60.

On receipt of an application for disability allowance the system may order a medical examination of a member to determine whether he is incapacitated for further service. If the applicant for disability allowance refuses to submit to the required medical examination, the application for disability allowance shall be canceled. The applicant shall either remain in this state, or return to this state at his own expense, to undergo the initial evaluations or examinations or his application shall be disallowed unless this requirement is waived by the board.

SEC. 8. Section 14214.1 is added to the Education Code, to read:

14214.1. Any member with a disabling impairment which is amenable to treatment that could be expected to restore ability to work shall be deemed to be under a disability if undergoing therapy prescribed by the member's treatment sources but the impairment has continued to be disabling or can be expected to be disabling for at least 12 months. Such member who willfully fails to follow prescribed treatment or who refuses to accept rehabilitation services made available to him by a rehabilitation program approved by the board cannot be found disabled. Willful failure to follow prescribed

treatment does not exist if there is good cause for failure to follow such treatment. In determining whether a member has good cause for failure to follow such treatment, the board shall take into account whether such treatment would abridge the member's right to the free exercise of his religion.

SEC. 9. Section 14214.3 is added to the Education Code, to read:

14214.3. Where a disabilitant returns to a position requiring membership or has his allowance terminated because of Section 14220.5 and within six months of return suffers a recurrence of the original disability it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former disability allowance shall be reinstated as of the first day of the month in which the recurrence of the disability occurred provided the member complies with the provisions in Section 14214.

SEC. 10. Section 14220.1 of the Education Code is amended to read:

14220.1. The board may require any member receiving a disability allowance, who has not attained the age of 60, to undergo medical examination at such times as it deems necessary. If the examination, together with other available information, shows to the satisfaction of the board that the member is no longer disabled, his disability allowance shall cease. Should any such member refuse to submit to medical examination, as herein provided, payments to such member under the disability shall be discontinued and all rights of the member in the disability allowance shall be revoked.

SEC. 11. Section 14220.5 of the Education Code is amended to read:

14220.5. If a person who begins to receive a disability allowance after June 30, 1972, is employed, or is self-employed in any capacity in which his earnings in any one month from such employment amount to 66⅔ percent of the compensation upon which the disability allowance was based increased 2 percent compounded annually from the effective date of the disability allowance, the person shall be presumed capable of performing gainful employment and no longer disabled. The disability allowance shall be terminated on the first day of the month in which the State Teachers Retirement System is notified that the member has earned 66⅔ percent of compensation as specified above in any prior month during which he received a disability allowance.

SEC. 12. Section 14260 of the Education Code is amended to read:

14260. Upon qualification for disability, a member shall receive a disability allowance, payable monthly, equal to 50 percent of final compensation. The allowance shall be increased by 10 percent of such final compensation for each child to a maximum of four such children.

CHAPTER 1413

An act to amend Section 31621.3 of the Government Code, relating to the County Employees' Retirement Law of 1937, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 31621.3 of the Government Code is amended to read:

31621.3. In counties adopting Section 31676.11, 31676.13, or 31676.14, or adopting one of such sections and then subsequently adopting another of such sections, the normal rate of contribution, except for members covered by Article 6.8 (commencing with Section 31639) of this chapter shall be such as will provide an average annuity at age 55 equal to one two-hundred-fortieth of the final compensation of members not covered by Article 6.8, according to the tables adopted by the board of supervisors, for each year of service rendered after entering the system.

This section may be made applicable in such counties on the first day of the month after the board of supervisors of such county adopts, by majority vote, a resolution providing that this section shall become applicable in such county.

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 new duties, obligations or responsibilities imposed on local government 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 counties adopting Government Code Section 31621.3, 31676.13, or 31676.14, there is great confusion and uncertainty on the part of the county officials, retirement system administrators, and county employees as to what retirement contribution rate is applicable. In order to alleviate this situation, it is necessary that this act take immediate effect to clarify the intent of the Legislature.

CHAPTER 1414

An act to add Article 11 (commencing with Section 11145) to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to state agencies.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Article 11 (commencing with Section 11145) is added to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, to read:

Article 11. Fines and Imprisonment

11145. No state agency shall adopt or enforce any rule or regulation a violation of which can result in the imposition of a fine or imprisonment, or both, unless a statute specifically authorizes the imposition of such fine or imprisonment, or both, for a violation of the rule or regulation.

CHAPTER 1415

An act to add Section 22816.5 to the Government Code, relating to the State Employees' Medical and Hospital Care Act.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 22816.5 is added to the Government Code, to read:

22816.5. An employee of the California State University and Colleges system who is granted a partial leave of absence for more than halftime but less than full time may maintain enrollment in a health benefit plan under this part provided the employee pays the contributions otherwise required of the Trustees of the California State University and Colleges system on account of the employee's enrollment.

CHAPTER 1416

An act to add Section 904.9 to the Penal Code, relating to grand juries.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 904.9 is added to the Penal Code, to read:

904.9. (a) In a county of the 18th class, as provided in Section 28039 of the Government Code, the presiding judge of the superior court may order and direct the impanelment, at any time, of one additional grand jury pursuant to this section.

(b) The presiding judge may select persons at random from the list of trial jurors in civil and criminal cases and shall examine them to determine if they are competent to serve as grand jurors. When a sufficient number of competent persons have been selected, they shall constitute the additional grand jury.

(c) Any additional grand jury which is impaneled pursuant to this section may serve for a period of one year from the date of impanelment, but may be discharged at any time within the one-year period by order of the presiding judge. In no event shall more than one additional grand jury be impaneled pursuant to this section at the same time.

(d) Whenever an additional grand jury is impaneled pursuant to this section, it may inquire into any matters which are subject to grand jury inquiry and shall have the sole and exclusive jurisdiction to return indictments, except for any matters which the regular grand jury is inquiring into at the time of its impanelment.

CHAPTER 1417

An act to amend Section 11153.7 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 11153.7 of the Welfare and Institutions Code is amended to read:

11153.7. (a) In addition to real property permitted by other provisions of this part, real property owned by the applicant or recipient, or in combination with his spouse, may be retained in an amount not to exceed a market value, less the amount of any encumbrance of record, of twenty-five thousand dollars ($25,000), provided it is being adequately utilized or is producing income reasonably consistent with its value which is used for the support of the applicant or recipient.

(b) If the real property is not producing income reasonably consistent with its value, the applicant or recipient shall be allowed reasonable time to rent, lease or sell the property. If the property cannot be rented, leased or sold on the basis of the market value, the applicant or recipient shall be allowed to submit evidence from a qualified real estate appraiser which indicates the value for which

0 4439 29 3 480 749

the property can be adequately utilized.

(c) If the applicant or recipient provides evidence that the only method of adequately utilizing the property is sale, the property shall be considered to be adequately utilized provided it is listed with a licensed real estate broker at the market value or the value determined in accordance with subdivision (b) and the applicant or recipient provides evidence that a bona fide and continuous effort is being made to sell the property.

(d) Any mortgage or note secured by a deed of trust not exceeding a market value of twenty-five thousand dollars ($25,000) that is obtained by the applicant or recipient, or in combination with his spouse, through the sale of such real property shall be deemed real property when the income from the same is used to meet the needs of the recipient.

For the purposes of this section, "market value" shall be defined as four times the assessed value.

CHAPTER 1418

An act to add and repeal Sections 14302.1 and 14302.2 of the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 14302.1 is added to the Education Code, to read:

14302.1. Any retirant who retired from the system on March 9, 1964, and subsequently reentered the system on September 6, 1966, and performed more than five years of creditable service prior to June 30, 1972, and subsequently retired on June 9, 1973, shall have his retirement allowance recalculated using the final compensation as determined by Section 14313 as it read on June 30, 1972. The benefit as recalculated under this section shall be retroactive to June 30, 1972, or the effective date of the member's retirement, whichever date is the later.

This section shall remain in effect only until February 28, 1977, and as of such date is repealed, unless a later enacted statute, which is chaptered before February 28, 1977, deletes or extends such date.

SEC. 2. Section 14302.2 is added to the Education Code, to read:

14302.2. Any member or retirant who retired from the system on June 18, 1966, and subsequently was reinstated to active membership on May 19, 1969, and performed more than five years of creditable service prior to June 30, 1974, shall have his retirement allowance calculated using the final compensation as determined by Section

14313 as it read on June 30, 1972. The benefit shall be retroactive to the effective date of the member's retirement, and shall accrue no earlier than June 1, 1974.

This section shall remain in effect only until February 28, 1977, and as of such date is repealed, unless a later enacted statute, which is chaptered before February 28, 1977, deletes or extends such date.

SEC. 3. The sum of thirty-three thousand one hundred dollars ($33,100) is hereby appropriated from the General Fund to the State Teachers' Retirement System for the purposes of this act.

CHAPTER 1419

An act to amend Section 24054 of the Education Code, relating to the state university and colleges.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 24054 of the Education Code is amended to read:

24054. (a) A certified public accountant shall be selected by each auxiliary organization described in Section 24054.5. Upon being notified of the certified public accountant selected by an auxiliary organization, the office of the chancellor shall forward the applicable auditing and reporting procedures to the selected certified public accountant. In accordance with procedures prescribed by the Department of Finance, such certified public accountant shall annually audit any and all state university or college auxiliary funds. The auxiliary organizations shall contract for and receive such audit annually, and shall submit such audit to the trustees and to the Director of Finance. Auxiliary organizations shall annually publish an audited statement of their financial condition which shall be disseminated as widely as feasible and be available to any person on request. In the case of an auxiliary organization primarily serving a single campus of the California State University and Colleges, publication in the campus student newspaper shall be deemed compliance with this requirement. In the case of an auxiliary organization serving the trustees or the California State University and Colleges, distribution of the published audited statement of its financial condition at a regularly scheduled meeting of the trustees shall be deemed compliance with this requirement.

(b) In the case of an auxiliary organization primarily serving a single campus of the California State University and Colleges, the president of that state college shall be responsible for ascertaining that all expenditures are in accordance with policies of the trustees, the propriety of all expenditures, and the integrity of the financial

reporting, made by auxiliary organizations.

(c) The operation of auxiliary organizations shall be conducted in conformity with regulations established by the trustees, and the accounting procedures of such auxiliary organizations shall be approved by the Director of Finance. The regulations shall include provisions requiring the governing board of each auxiliary organization to provide salaries, working conditions and benefits for the full-time employees of each auxiliary organization which are comparable to those provided California State University and Colleges employees performing similar services, except that retirement and permanent status benefits shall only apply to persons employed by a foundation qualifying as an auxiliary organization for at least three consecutive years. For those employees whose duties are not comparable to classes in California State University and Colleges employment the salaries established shall be at least equal to the salaries prevailing in other educational institutions in the area, or commercial operations of like nature. Retirement benefits may be provided by other than the Public Employees' Retirement System.

(d) A contract for participation in the Public Employees' Retirement System in accordance with the terms and conditions of the public employees' retirement law shall be deemed to fully satisfy the requirements of subdivision (c) with respect to retirement.

CHAPTER 1420

An act to amend Sections 20045 and 31840.4 of, and to add Section 31581.1 to, the Government Code, relating to public retirement systems.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 20045 of the Government Code is amended to read:

20045. Wherever in this part the rights of a member, because of membership in another retirement system, are conditioned upon employment within 90 days of termination of membership in this system or another retirement system, on and after January 1, 1976, such period shall be six months rather than 90 days.

This section shall also be applicable to members who were permanent employees of the state who were laid off because of a reduction in work force and whose break in service between retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.

SEC. 1.5. Section 20045 of the Government Code is amended to read:

20045. Wherever in this part the rights of a member, because of membership in another retirement system, are conditioned upon employment within 90 days of termination of membership in this system or another retirement system, with respect to such employment which occurs on and after January 1, 1976, such period shall be six months rather than 90 days.

This section shall also be applicable to members who were permanent employees of the state who were laid off because of a reduction in work force and whose break in service between retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.

SEC. 2. Section 31581.1 is added to the Government Code, to read:

31581.1. The board of supervisors may elect to pay up to one-half of the contributions normally required of members for any period of time designated in the resolution providing for such payment. The payments shall not become part of the accumulated contributions of the member. Such payments may be made with respect to employees in one or more bargaining units irrespective of whether they are made with respect to other employees.

SEC. 3. Section 31840.4 of the Government Code is amended to read:

31840.4. Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within 90 days of termination of employment covered by a system under this chapter or another retirement system, on and after January 1, 1976, such period shall be six months rather than 90 days.

This section shall also be applicable to members who were permanent employees of the state who were laid off because of a reduction in work force and whose break in service between retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.

SEC. 3.5. Section 31840.4 of the Government Code is amended to read:

31840.4. Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within 90 days of termination of employment covered by a system under this chapter or another retirement system, with respect to such reemployment which occurs on and after January 1, 1976, such period shall be six months rather than 90 days.

This section shall also be applicable to members who were permanent employees of the state who were laid off because of a reduction in work force and whose break in service between retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.

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 or school district 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. It is the intent of the Legislature, if this bill and Assembly Bill No. 3119 are both chaptered and become effective January 1, 1977, both bills amend Sections 20045 and 31840.4 of the Government Code, and this bill is chaptered after Assembly Bill No. 3119, that the amendments to Sections 20045 and 31840.4, proposed by both bills be given effect and incorporated in Sections 20045 and 31840.4, in the form set forth in Sections 1.5 and 3.5 of this act. Therefore, Sections 1.5 and 3.5 of this act shall become operative only if this bill and Assembly Bill No. 3119 are both chaptered and become effective January 1, 1977, both amend Sections 20045 and 31840.4, and this bill is chaptered after Assembly Bill No. 3119, in which case Sections 1 and 3 of this act shall not become operative.

CHAPTER 1421

An act to add Section 710.4 to the Unemployment Insurance Code, relating to unemployment disability compensation for public school employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 710.4 is added to the Unemployment Insurance Code, to read:

710.4. Notwithstanding the provisions of Section 710.3, any public school employer, as defined in Section 3540.1 of the Government Code, may elect to become an employer subject to Part 2 (commencing with Section 2601) of this division, with respect to all employees who are a part of an appropriate unit established pursuant to the provisions of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, provided such election is the result of a negotiated agreement between the public school employer and the certified employee organization, as such terms are defined in Section 3540.1 of the Government Code. The public school employer may elect to provide coverage to its management and confidential employees, as such terms are defined in Section 3540.1 of the Government Code, and to employees not a part of an appropriate unit, but such election shall not be contingent upon coverage of other employees of the public school employer.

Upon the filing of such an election, the filing entity shall, upon approval by the director, become an employer subject to Part 2

(commencing with Section 2601) of this division to the same extent as other employers, and services performed by its employees, including those with civil service or tenure positions, shall constitute employment subject to such part. Beginning at that time, the public school employer shall withhold from the wages of employees the contributions required for unemployment compensation disability benefits,.

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:

School employees and employers have been granted authority to enter into collective bargaining commencing July 1, 1976, as it relates to those employees who are a part of a bargaining unit. Current law does not extend coverage only to bargaining units. This act will do so and will allow such bargaining during initial contract negotiation.

CHAPTER 1422

An act to repeal and add Chapter 9.5 (commencing with Section 3201) to Division 4 of Title 1 of, and to repeal Article 3 (commencing with Section 19730) of Chapter 10 of Part 2 of Division 5 of Title 2 of, the Government Code, relating to political activities of public employees.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Chapter 9.5 (commencing with Section 3201) of Division 4, Title 1, of the Government Code is repealed.

SEC. 2. Chapter 9.5 (commencing with Section 3201) is added to Division 4, Title 1, of the Government Code, to read:

CHAPTER 9.5. POLITICAL ACTIVITIES OF PUBLIC EMPLOYEES

3201. The Legislature finds that political activities of public employees are of significant statewide concern. The provisions of this chapter shall supersede all provisions on this subject in the general law of this state or any city, county, or city and county charter except as provided in Section 3207.

3202. This chapter applies to all officers and employees of a state or local agency.

(a) "Local agency" means a county, city, city and county, political subdivision, district other than a school district, or municipal corporation. Officers and employees of a given local agency include officers and employees of any other local agency whose principal

04351 293625 778

duties consist of providing services to the given local agency.

(b) "State agency" means every state office, department, division, bureau, board, commission, superior court, court of appeal, the Supreme Court, the California State University and Colleges, the University of California, and the Legislature.

3203. Except as otherwise provided in this chapter, or as necessary to meet requirements of federal law as it pertains to a particular employee or employees, no restriction shall be placed on the political activities of any officer or employee of a state or local agency.

3204. No one who holds, or who is seeking election or appointment to, any office or employment in a state or local agency shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position, within the state or local agency, upon consideration or condition that the vote or political influence or action of such person or another shall be given or used in behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration. This prohibition shall apply to urging or discouraging the individual employee's action.

3205. An officer or employee of a local agency shall not, directly or indirectly, solicit political funds or contributions, knowingly, from other officers or employees of the local agency or from persons on the employment lists of the local agency. Nothing in this section prohibits an officer or employee of a local agency from communicating through the mail or by other means requests for political funds or contributions to a significant segment of the public which may include officers or employees of the local agency.

3206. No officer or employee of a local agency shall participate in political activities of any kind while in uniform.

3207. Any city, county, or city and county charter or, in the absence of a charter provision, the governing body of any local agency and any agency not subject to Section 19251 by establishing rules and regulations, may prohibit or otherwise restrict the following:

(a) Officers and employees engaging in political activity during working hours.

(b) Political activities on the premises of the local agency.

3208. Except as provided in Section 19251, the limitations set forth in this chapter shall be the only restrictions on the political activities of state employees.

3209. Nothing in this chapter prevents an officer or employee of a state or local agency from soliciting or receiving political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil

service, or other working conditions of officers or employees of such state or local agency, except that a state or local agency may prohibit or limit such activities by its employees during their working hours and may prohibit or limit entry into governmental offices for such purposes during working hours.

SEC. 3. Article 3 (commencing with Section 19730) of Chapter 10 of Part 2 of Division 5 of Title 2 of the Government Code is repealed.

CHAPTER 1423

An act to amend Section 1073 of, to add Article 1.5 (commencing with Section 12930) to Chapter 1 of Division 10 of, and to repeal Sections 13004, 13752, 13753, and 13754 of, the Education Code, relating to political activities of school employees.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 1073 of the Education Code is amended to read:

1073. The governing board of any school district or any member of the governing board of a school district may prepare or disseminate information or may make public or private appearances or statements for the purpose of urging the passage or defeat of any school measure of the district.

As used in the section, "school measure" includes any proposition for the issuance of bonds of the school district, an increase in the maximum tax rate of the school district, the acceptance, expenditure, and repayment of state funds by the school district to enable the school district to construct buildings and other facilities, or the candidacy of any person for election to the governing board of the school district.

Nothing in this code shall be construed as prohibiting any administrative officer of a school district from appearing at any time before a citizens group, which requests his appearance, to discuss the reasons why the governing board of the school district called an election to submit to the voters of the district a proposition for the issuance of bonds or for an increase in the maximum tax rate of the district and to answer questions put to him by any taxpayer concerning the cost of such proposals.

SEC. 2. Article 1.5 (commencing with Section 12930) is added to Chapter 1 of Division 10 of the Education Code, to read:

Article 1.5. Political Activities of School Officers and Employees

12930. The Legislature finds that political activities of school employees are of significant statewide concern. The provisions of this article shall supersede all provisions on this subject in any city, county, or city and county charter as well as in the general law of this state.

12931. This article applies to all officers and employees of a local agency.

"Local agency" means a county superintendent of schools, an elementary, high, or unified school district, or a community college district.

Officers and employees of a given local agency include officers and employees of any other local agency whose principal duties consist of providing services to the given local agency.

12932. Except as otherwise provided in this article, or as necessary to meet requirements of federal law as it pertains to a particular employee or employees, no restriction shall be placed on the political activities of any officer or employee of a local agency.

12933. No one who holds, or who is seeking election or appointment to, any office or employment in a local agency shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any person, or to aid or obstruct any person in securing, or to prevent any person from securing, any position, nomination, confirmation, promotion, change in compensation or position, within the local agency, upon consideration or condition that the vote or political influence or action of such person or another shall be given or used in behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration. The prohibitions of this section shall apply to either urging or discouraging any political action of an employee.

12933.5. Except as provided in Sections 1073 and 12935, no school district funds, services, supplies, or equipment shall be used for the purpose of urging the passage or defeat of any school measure of the district, including, but not limited to, the candidacy of any person for election to the governing board of the district.

12934. The governing body of each local agency may establish rules and regulations on the following:

(a) Officers and employees engaging in political activity during working hours.

(b) Political activities on the premises of the local agency.

12935. Nothing in this chapter prevents an officer or employee of a local agency from soliciting or receiving political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of officers or employees of such

local agency, except that a local agency may prohibit or limit such activities by its employees during their working hours and may prohibit or limit entry into buildings and grounds under the control of a local agency for such purposes during working hours.

12936. No person who is in the classified service or who is upon any eligibility list shall be appointed, demoted, or removed, or in any way discriminated against because of his political acts, opinions, or affiliations.

SEC. 3. Section 13004 of the Education Code is repealed.

SEC. 4. Section 13752 of the Education Code is repealed.

SEC. 5. Section 13753 of the Education Code is repealed.

SEC. 6. Section 13754 of the Education Code is repealed.

CHAPTER 1424

An act to add Section 27424.5 to the Public Resources Code, relating to the coastal zone, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 27424.5 is added to the Public Resources Code, to read:

27424.5. Any judicial proceeding to which the commission is a party and which involves a claim of exemption under this division may be settled in all respects by the commission upon such terms and conditions as the commission shall determine in accordance with the provisions of this division. Participation by a regional commission as a party to such proceeding shall not prevent the commission upon its own authority from effectuating any such settlement. Such settlement shall be binding upon all parties to the proceeding agreeing thereto and upon the appropriate regional commission. Such settlement may be made a part of the judgment of the court.

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 provisions of this act are designed to better achieve the objectives of the California Coastal Zone Conservation Act of 1972, by clarifying the existing uncertainties as to the right of the California Coastal Zone Conservation Commission, by itself, to make settlements in connection with judicial action determining exemptions under this act, even though a regional coastal zone conservation commission participates as a party in any such proceeding. In order to have such uncertainties clarified as soon as

possible, it is necessary that the provisions of this act become effective immediately.

CHAPTER 1425

An act to amend Sections 7504, 7514, 7521, 7522, 7523, 7550.5, and 7565 of the Business and Professions Code, and to amend Section 12031 of the Penal Code, relating to licensees of the Private Investigator and Adjuster Act.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 7504 of the Business and Professions Code is amended to read:

7504. As used in this chapter, "licensee" means a person licensed under this chapter and includes, but is not limited to, private investigator, private patrol operator, insurance adjuster, repossessor, and alarm company operator.

SEC. 2. Section 7514 of the Business and Professions Code is amended to read:

7514. The director may adopt and enforce reasonable rules:

(a) Classifying licensees according to the type of business regulated by this chapter in which they are engaged, including but not limited to private investigators, private patrol operators, insurance adjusters, repossessors, and alarm company operators, and limiting the field and scope of the operations of a licensee to those in which he is classified and qualified to engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) For a change in the classification of a licensee, or in the type of business organization upon application therefor by a licensee, and to prescribe the fee, if any, to be paid.

(e) Establishing the qualifications which a uniformed employee of a licensee who operates a private patrol must meet as a condition of becoming eligible to carry firearms pursuant to Section 12031.5 of the Penal Code.

(f) Requiring each uniformed employee of a private patrol operator, as defined in this chapter, to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the

renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(g) Requiring each alarm agent of an alarm company operator, as defined in this chapter, to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(h) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with the director alleging that any uniformed employee of a private patrol operator who has registered, or is an applicant for registration, with the bureau fails to meet standards for registration, and providing further for the investigation of such charges.

(i) Requiring private patrol operators to maintain detailed records identifying all firearms in their possession or under their control, and the employees or persons authorized to carry or have access to such firearms.

(j) Establishing the qualifications which a uniformed employee of a licensee who operates a private patrol must meet as a condition of handling guard dogs.

SEC. 3. Section 7521 of the Business and Professions Code is amended to read:

7521. (a) A private investigator within the meaning of this chapter is a person other than an insurance adjuster who, for any consideration whatsoever engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information with reference to:

Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer, or investigating committee.

(b) A private patrol operator, or operator of a private patrol service, within the meaning of this chapter is a person who, for any consideration whatsoever:

Agrees to furnish, or furnishes, a watchman, guard, patrolman, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or performs the service of such watchman, guard, patrolman, or other person, for any of said purposes.

(c) A person licensed as a private patrol operator only may not make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which he has been hired or engaged to protect, guard, or watch.

(d) An insurance adjuster within the meaning of this chapter is a person other than a private investigator who, for any consideration whatsoever, engages in any of the activities enumerated in subdivision (a) in the course of adjusting or otherwise participating in the disposal of, any claim under or in connection with a policy of insurance or engages in soliciting insurance adjustment business.

(e) A repossessor within the meaning of this chapter is a person who, for any consideration whatsoever, engages in business or accepts employment to locate or recover personal property, including but not limited to personal property registered under the provisions of the Vehicle Code, which has been sold under a conditional sales agreement or which is subject to a chattel mortgage. A licensee under this chapter shall not engage in business or accept employment to collect claims owed or due or asserted to be owed or due to another unless the licensee has complied with the provisions of Chapter 8 (commencing with Section 6850) of Division 3 in addition to complying with the provisions of this chapter, except that a repossessor licensed under this chapter may make a written demand for payment in lieu of repossession if the demand is made pursuant to an assignment for repossession and if under the terms of the assignment the fee or remuneration due to the repossessor is not based on a percentage of the amount collected.

(f) An alarm company operator within the meaning of this chapter shall mean and include any business operated for any consideration whatsoever, engaged in the installation, maintenance, alteration, or servicing of alarm systems or which responds to such alarm systems. "Alarm company operator," however, shall not include a business which merely sells from a fixed location or manufacture alarm systems unless such business services, installs, monitors or responds to alarm systems at the protected premises.

(g) An alarm agent within the meaning of this chapter is a person employed by an alarm company operator whose duties include altering, installing, maintaining, moving, repairing, replacing, or

servicing an alarm system. The term "alarm system" shall mean an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

SEC. 4. 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. 5. Section 7523 of the Business and Professions Code is amended to read:

7523. (a) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from imposing local regulations upon any street patrol special officer or upon any person who furnishes street patrol service or street patrol special officers requiring registration with an agency to be designated by the city, county, or city and county, including in such registration full information as to the identification and employment and subject to the right of the city, county, or city and county to allocate certain portions of the territory in such city, county, or city and county within which the activities of any such street patrol service or person shall be confined. Any city, county, or city and county may refuse such registration to any person of bad moral character and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(b) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from imposing local regulations upon any employees of a private patrol operator who are unable to furnish evidence of current registration pursuant to subdivision (f) of Section 7514.

(c) The provisions of this chapter shall not prevent the local authorities in any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from requiring alarm agents to register their name and a file copy of their state identification card with the city, county, or city and county. No fee may be charged nor may any application be required by the city, county, or city and county for such registration.

SEC. 7. Section 7550.5 of the Business and Professions Code is amended to read:

7550.5. A person registered under the provisions of subdivisions (f) and (g) of Section 7514 shall be deemed to be a licensee for the purposes of this article.

SEC. 8. Section 7565 of the Business and Professions Code is amended to read:

7565. Every license, branch office certificate and pocket card

issued under this chapter shall expire at 12 midnight two years after the date upon which it was issued or renewed. To renew an unexpired license or certificate, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter. On renewal, such evidence of renewal of the license or certificate as the director may prescribe, and renewal pocket cards for the persons mentioned in Section 7533, shall be issued to the licensee.

SEC. 9. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), 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) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) 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.

(4) 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.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) 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.

(2) 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.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who 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 while not on duty as such peace officer.

(1) 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.

(2) 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.

(3) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(4) 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.

(5) 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 alarm company agents to register their name and a file copy of their state identification card with the city, county, or city and county. No fee may be charged nor may any application be required by the city, county, or city and county for such registration.

(e) 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.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(*l*) 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. 10. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d) 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) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) 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.

(4) 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.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) 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.

(2) 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.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who 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 while not on duty as such peace officer.

(1) Guards or messengers of common carriers, contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority, 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.

(2) 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.

(3) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(4) 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.

(5) 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 alarm company agents to register their name and a file copy of their state identification card with the city, county, or city and county. No fee may be charged nor may any application be required by the city, county, or city and county for such registration.

(e) 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.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(*l*) 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. 11. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d) 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, peace officers described in subdivision (d) of Section 12027, 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) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) 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.

(4) 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.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) 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.

(2) 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.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who 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 while not on duty as such peace officer.

(1) 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.

(2) 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.

(3) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(4) Uniformed security guards, regularly employed and

03445 294320 845

compensated as such by persons engaged in any lawful business, while actually engaged in protecting and preserving the property of their employers.

(5) 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 alarm company agents to register their name and a file copy of their state identification card with the city, county, or city and county. No fee may be charged nor may any application be required by the city, county, or city and county for such registration.

(e) 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.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(*l*) 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. 12. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b) (c), or (d), 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 peace officers described in subdivision (d) of Section 12027, 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) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) 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.

(4) 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.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) 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

0 3445 29 4 355 852

time by the police commission.

(2) 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.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who 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 while not on duty as such peace officer.

(1) Guards or messengers of common carriers, contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority, 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.

(2) 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.

(3) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(4) 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.

(5) 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 alarm company agents to register their name and a file copy of their state identification card with the city, county or city and county. No fee may be charged nor may any application be required by the city, county or city and county for such registration.

(e) 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

03445 29 4380 857

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.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(*l*) 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. 13. It is the intent of the Legislature that if this bill and Senate Bill No. 1823 or Senate Bill No. 1333, or both, are chaptered and become effective January 1, 1977, each of the bills amend Section 12031 of the Penal Code, 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. 1823 are both chaptered and become effective January 1, 1977, both bills amend Section 12031 of the Penal Code, but Senate Bill No. 1333 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1823, the amendments proposed by both bills shall be given effect and incorporated in Section 12031 in the form

set forth in Section 10 of this act. Therefore, if this bill and Senate Bill No. 1823 are both chaptered and become effective January 1, 1977, both bills amend Section 12031, this bill is chaptered after Senate Bill No. 1823, and Senate Bill No. 1333 is not chaptered or as chaptered does not amend that section, Section 10 of this act shall be operative and Sections 9, 11, and 12 of this act shall not become operative.

(2) If this bill and Senate Bill No. 1333 are both chaptered and become effective January 1, 1977, both bills amend Section 12031 of the Penal Code, but Senate Bill No. 1823 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1333, the amendments proposed by both bills shall be given effect and incorporated in Section 12031 in the form set forth in Section 11 of this act. Therefore if this bill and Senate Bill No. 1333 are both chaptered and become effective January 1, 1977, both bills amend Section 12031, this bill is chaptered after Senate Bill No. 1333, and Senate Bill No. 1823 is not chaptered or as chaptered does not amend that section, Section 11 shall be operative and Sections 9, 10, and 12 of this act shall not become operative.

(3) If this bill and Senate Bill No. 1823 and Senate Bill No. 1333 are all chaptered and become effective January 1, 1977, all three bills amend Section 12031 of the Penal Code, and this bill is chaptered after Senate Bill No. 1823 and Senate Bill No. 1333, the amendments proposed by all three bills shall be given effect and incorporated in Section 12031 in the form set forth in Section 12 of this act. Therefore, if this bill and Senate Bill No. 1823 and Senate Bill No. 1333 are all chaptered and become effective January 1, 1977, all three bills amend Section 12031 of the Penal Code, and this bill is chaptered after Senate Bill No. 1823 and Senate Bill No. 1333, Section 12 of this act shall be operative and Sections 9, 10, and 11 of this act shall not become operative.

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 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 cost changes.

CHAPTER 1426

An act to amend Sections 7514 and 7514.1 of the Business and Professions Code, and Sections 12031 and 12033 of the Penal Code, relating to firearms.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976]

4 1823 29 4 425 866

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

SECTION 1. Section 7514 of the Business and Professions Code is amended to read:

7514. The director may adopt and enforce reasonable rules:

(a) Classifying licensees according to the type of business regulated by this chapter in which they are engaged, including but not limited to private investigators, persons employed by any lawful business as security guards or patrolpersons, insurance adjusters, and repossessors, and limiting the field and scope of the operations of a licensee to those in which he is classified and qualified to engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) For a change in the classification of a licensee, or in the type of business organization upon application therefor by a licensee, and to prescribe the fee, if any, to be paid.

(e) Establishing the qualifications which any person employed by a private patrol operator or any lawful business as a security guard or patrolperson must meet as a condition of becoming eligible to carry firearms pursuant to paragraph (11) of subdivision (b) of Section 12031 and Section 12031.5 of the Penal Code.

(f) Requiring each uniformed employee of a private patrol operator, as defined in this chapter and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of such employment carries a deadly weapon to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(g) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with the director alleging that any registered security guard or patrolperson, or anyone who is an applicant for registration, with the bureau fails to meet standards for registration, and providing further for the investigation of such charges.

(h) Requiring private patrol operators and any lawful business to maintain detailed records identifying all firearms in their possession or under their control, and the employees or persons authorized to carry or have access to such firearms.

(i) Establishing the qualifications which a uniformed employee of a licensee who operates a private patrol must meet as a condition of handling guard dogs.

SEC. 1.5. Section 7514 of the Business and Professions Code is amended to read:

7514. The director may adopt and enforce reasonable rules:

(a) Classifying licensees according to the type of business regulated by this chapter in which they are engaged, including but not limited to private investigators, persons employed by any lawful business as security guards or patrolpersons, insurance adjusters, repossessors, and alarm company operators and limiting the field and scope of the operations of a licensee to those in which he is classified and qualified to engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) For a change in the classification of a licensee, or in the type of business organization upon application therefor by a licensee, and to prescribe the fee, if any, to be paid.

(e) Establishing the qualifications which any person employed by a private patrol operator or any lawful business as a security guard or patrolperson must meet as a condition of becoming eligible to carry firearms pursuant to paragraph (11) of subdivision (b) of Section 12031 and Section 12031.5 of the Penal Code.

(f) Requiring each uniformed employee of a private patrol operator, as defined in this chapter, and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of such employment carries a deadly weapon to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(g) Requiring each alarm agent of an alarm company operator, as defined in this chapter, to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such

registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(h) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with the director alleging that any registered security guard or patrolperson, or anyone who is an applicant for registration, with the bureau fails to meet standards for registration, and providing further for the investigation of such charges.

(i) Requiring private patrol operators and any lawful business to maintain detailed records identifying all firearms in their possession or under their control, and the employees or persons authorized to carry or have access to such firearms.

(j) Establishing the qualifications which a uniformed employee of a licensee who operates a private patrol must meet as a condition of handling guard dogs.

SEC. 2. Section 7514.1 of the Business and Professions Code is amended to read:

7514.1. (a) Every uniformed employee of a licensee who operates a private patrol and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of such employment carries a deadly weapon shall complete a course of training in the exercise of the powers to arrest and a course of training in the carrying and use of firearms. The course of training in the carrying and use of firearms shall not be required of any employee who is not required or permitted by a licensee to carry or use firearms. The course in the carrying and use of firearms and the course of training in the exercise of the powers to arrest shall meet the standards which shall be prescribed by the Department of Consumer Affairs. The department shall encourage restraint and caution in the use of firearms.

(b) The department shall prescribe the minimum standards for a course of training in the exercise of powers of arrest.

(c) No uniformed employee of a licensee, who was licensed by the department on or before January 1, 1976, shall carry or use any firearm unless he has successfully completed the course of training prescribed in subdivision (a) on or before January 1, 1976. No uniformed employee of a licensee, who was licensed by the department after January 1, 1976, shall carry or use any firearm until he has successfully completed the course of training prescribed in subdivision (a).

(d) The department shall report to the Legislature on or before March 1, 1977 concerning the nature and scope of the training offered pursuant to subdivision (a), the number of employees so trained and the conformity of the industry to the standards established by the department.

SEC. 3. 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) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms as prescribed by the Department of Consumer Affairs.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(11) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(12) 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.

(13) 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. 4. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b) (c), or (d), 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) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) 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.

(4) 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.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) 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.

(2) 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.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who 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 while not on duty as such peace officer.

(1) 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.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms as prescribed by the Department of

Consumer Affairs.

(3) 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.

(4) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(5) 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.

(6) 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 alarm company agents to register their name and a file copy of their state identification card with the city, county or city and county. No fee may be charged nor may any application be required by the city, county or city and county for such registration.

(e) 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.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(*l*) 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. 5. Section 12033 of the Penal Code is amended 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 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. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 3445 are both chaptered and become effective January 1, 1977, both bills amend Section 7514 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 3445, that the amendments to Section 7514 proposed by both bills be given effect and incorporated in Section 7514 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 3445 are both chaptered and become effective January 1, 1977, both amend Section 7514, and this bill is chaptered after Assembly Bill No. 7445, in which case Section 1 of this act shall not become operative.

SEC. 7. It is the intent of the Legislature, if this bill and Assembly Bill No. 3445 are both chaptered and become effective January 1, 1977, both bills amend Section 12031 of the Penal Code, and this bill is chaptered after Assembly Bill No. 3445, that the amendments to Section 12031 proposed by both bills be given effect and incorporated in Section 12031 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill No. 3445 are both chaptered and become effective January 1, 1977, both amend Section 12031, and this bill is chaptered after Assembly Bill No. 3445, in which case Section 3 of this act shall not become operative.

CHAPTER 1427

An act to add Section 11350.3 to the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 11350.3 is added to the Welfare and Institutions Code, to read:

11350.3. Notwithstanding any other provision of law, the parent or parents of a child under 21 years of age shall not be held financially responsible, nor shall financial contribution be requested or required of such parent or parents, for maternity home care or related services, including social service counseling, to which the child may consent without the need for parental consent.

This section shall remain in effect only until December 31, 1977.

SEC. 2. This act does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 3. It is the intent of the Legislature in enacting this statute that programs already in existence and funded by counties be continued.

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. 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 State Department of Benefit Payments' Eligibility Assistance Standard No. 43-105.2 provides that financial resources of the parents of minor parents must be considered in order for the minor parent to be eligible for AFDC benefits. This regulation, when applied to full-service maternity hospitals, discourages pregnant minors from seeking high-quality maternity care and may result in substandard care, the absence of all prenatal related services with corresponding health risks to the unborn infant, or an unwanted abortion.

This act would eliminate the counterproductive aspects of the present AFDC eligibility policies by allowing the pregnant minor to qualify for boarding home and institutions support regardless of her parent's or parents' financial resources. In order that these provisions may achieve their intended results, it is necessary that this act take effect immediately.

CHAPTER 1428

An act to add Section 58852 to the Food and Agricultural Code, relating to marketing order advisory boards.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 58852 is added to the Food and Agricultural Code, to read:

58852. It is hereby declared, as a matter of legislative determination, that the producers, or handlers, or both producers and handlers, appointed to any advisory board pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such advisory boards, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

CHAPTER 1429

An act to add Section 19627.8 to the Business and Professions Code and to add Sections 901.5, 6006.5, 6039.5, 12041.5, 14971.5, 20462.5, 24007.1, 27571.1, 29322.1, 40571.1, 41002.1, 41201.1, 52291.1, 59738, 62115.1, 62719.1, 64118, 64605, and 65576 to the Food and Agricultural Code, relating to governmental boards, committees, and commissions.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 19627.8 is added to the Business and Professions Code, to read:

19627.8. It is hereby declared, as a matter of legislative determination, that persons appointed to the Fair Budget Review Board pursuant to Section 19627.7 are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 2. Section 901.5 is added to the Food and Agricultural Code, to read:

901.5. It is hereby declared, as a matter of legislative determination, that representatives of the agricultural industry appointed to the State Board of Food and Agriculture pursuant to this chapter are intended to represent and further the interest of a particular industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 3. Section 6006.5 is added to the Food and Agricultural Code, to read:

6006.5. It is hereby declared, as a matter of legislative determination, that cottongrowers appointed to the Cotton Pest Control Board pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 4. Section 6039.5 is added to the Food and Agricultural Code, to read:

6039.5. It is hereby declared, as a matter of legislative determination, that persons appointed to the Curly Top Virus Control Board pursuant to Section 6039 are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 5. Section 12041.5 is added to the Food and Agricultural Code, to read:

12041.5. It is hereby declared, as a matter of legislative determination, that members representing agricultural pest control advisers appointed to the Agricultural Pest Control Advisory Committee pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such committee, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

03796 29535 916

SEC. 6. Section 14971.5 is added to the Food and Agricultural Code, to read:

14971.5. It is hereby declared, as a matter of legislative determination, that persons appointed to the Feed Inspection Advisory Board pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 7. Section 20462.5 is added to the Food and Agricultural Code, to read:

20462.5. It is hereby declared, as a matter of legislative determination, that persons appointed to the Livestock Identification Advisory Board pursuant to this article are intended to represent and further the interest of the particular agricultural industries concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industries concerned are tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 8. Section 24007.1 is added to the Food and Agricultural Code, to read:

24007.1. It is hereby declared, as a matter of legislative determination, that persons appointed to the advisory committee pursuant to Section 24007 are intended to represent and further the interest of a particular industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such committee, the particular industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 9. Section 27571.1 is added to the Food and Agricultural Code, to read:

27571.1. It is hereby declared, as a matter of legislative determination, that egg dealers appointed to the Shell Egg Advisory Committee pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such committee, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 10. Section 29322.1 is added to the Food and Agricultural

Code, to read:

29322.1. It is hereby declared, as a matter of legislative determination, that beekeepers appointed to the Apiary Board pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 11. Section 40571.1 is added to the Food and Agricultural Code, to read:

40571.1. It is hereby declared, as a matter of legislative determination, that shippers of fruits and vegetables appointed to the Shipping Point Advisory Committee pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such committee, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 12. Section 41002.1 is added to the Food and Agricultural Code, to read:

41002.1. It is hereby declared, as a matter of legislative determination, that producers of tomatoes for canning and handlers engaged in canning tomatoes appointed to the Canning Tomato Advisory Committee pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such committee, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 13. Section 41201.1 is added to the Food and Agricultural Code, to read:

41201.1. It is hereby declared, as a matter of legislative determination, that wine producers appointed to the Grape Inspection Advisory Committee pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such committee, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 14. Section 52291.1 is added to the Food and Agricultural

Code, to read:

52291.1. It is hereby declared, as a matter of legislative determination, that labelers appointed to the Seed Advisory Board pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 15. Section 59738 is added to the Food and Agricultural Code, to read:

59738. It is hereby declared, as a matter of legislative determination, that producers, or handlers, and processors appointed to any committees pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such committees, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 16. Section 62115.1 is added to the Food and Agricultural Code, to read:

62115.1. It is hereby declared, as a matter of legislative determination, that producers of fluid milk appointed to the regional advisory boards pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such advisory boards, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 17. Section 62719.1 is added to the Food and Agricultural Code, to read:

62719.1. It is hereby declared, as a matter of legislative determination, that producers appointed to the review board pursuant to Section 62719 are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 18. Section 64118 is added to the Food and Agricultural Code, to read:

64118. It is hereby declared, as a matter of legislative determination, that producers, handlers, and producer-handlers appointed to the council pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such council, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 19. Section 64605 is added to the Food and Agricultural Code, to read:

64605. It is hereby declared, as a matter of legislative determination, that producers or slaughterers appointed to the council pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such council, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 20. Section 65576 is added to the Food and Agricultural Code, to read:

65576. It is hereby declared, as a matter of legislative determination, that producers or employees of producers appointed to the commission pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such commission, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

CHAPTER 1430

An act to repeal and add Chapter 2 (commencing with Section 8510) of Division 6 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Chapter 2 (commencing with Section 8510) of Division 6 of the Elections Code is repealed.

SEC. 2. Chapter 2 (commencing with Section 8510) is added to Division 6 of the Elections Code, to read:

CHAPTER 2. PRESIDENTIAL ELECTORS

8510. In each year of the general election at which electors of President and Vice President of the United States are to be chosen, each congressional nominee shall designate one presidential elector and shall file his or her name, residence and business address with the Secretary of State by October 1st of the presidential election year. Each United States senatorial nominee, determined by the last two United States senatorial elections, shall designate one presidential elector and shall file his or her name, residence and business address with the Secretary of State by October 1st of the presidential election year. In the event there is no United States senatorial nominee or no congressional nominee in any particular district, the state chairman shall designate one presidential elector for each vacancy and shall file his or her name, residence and business address with the Secretary of State by October 1st of the presidential election 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 to apply to the selection of presidential electors in 1976, it is necessary that this act take effect immediately.

CHAPTER 1431

An act to amend Section 139 of the Labor Code, relating to medical advisory committee.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 139 of the Labor Code is amended to read:

139. The administrative director shall appoint a medical advisory committee composed of eight members, seven of whom shall be physicians and surgeons certificated to practice medicine in this state. One member of the medical advisory committee shall be a chiropractor licensed to practice chiropractic in this state. The seven physician and surgeon members of the advisory committee shall represent medical specialties concerned with the treatment of industrial injury and disease. The members shall be appointed after

consultation with statewide and local associations of the medical and chiropractic professions for two-year staggered terms. Vacancies shall be filled by appointment for the unexpired terms. Members shall receive actual necessary traveling expenses and a per diem of one hundred dollars ($100) for each day spent in meetings of the medical advisory committee. The medical advisory committee shall counsel and assist the medical director and shall perform such other duties as the administrative director may direct.

The medical advisory committee shall:

(a) Maintain liaison with the medical and chiropractic professions.

(b) Assist in recruiting doctors for the medical bureau.

(c) Advise the medical director as to selection and removal of independent medical or chiropractic examiners.

(d) Assist, within the scope of each member's professional training, in developing guidelines for determination of disputed questions of medical fact.

(e) Suggest standards for improving care furnished injured employees.

(f) Undertake continuing studies of developments in the field of rehabilitation, and continuously inform treating physicians and surgeons and chiropractors of these developments.

(g) Advise the division regarding reasonable levels of fees for physicians and surgeons and chiropractors performing services under this code.

The administrative director shall appoint for renewable terms of two years, independent expert medical or chiropractic examiners in each of the respective specialties as may be required.

Assignment of cases to independent medical or chiropractic examiners shall be made at the request of a referee by the medical director or his assistant in each office where a unit of the medical bureau is maintained or by the supervising referee in other offices of the division. Insofar as possible, a rotation method of assignment of independent medical or chiropractic examiners shall be followed.

Such medical or chiropractic examiners shall conduct examinations and report their findings and opinions in accordance with guidelines developed for that purpose by the medical director of the division.

Payment for independent medical or chiropractic examination shall be made by the Division of Industrial Accidents from funds appropriated for that purpose or for the support of the division's medical bureau.

The level of fees for such services shall be set periodically by the administrative director at a level which will assure the availability of outstanding medical and chiropractic experts to serve as independent examiners.

02831 295140 937

CHAPTER 1432

An act to amend Section 13810 of the Penal Code, relating to criminal justice.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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; 19 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; eight members appointed by the Senate Rules Committee; and eight 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 six 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 four 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, a peace officer, and three 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.

03781 295165 942

CHAPTER 1433

An act to add Section 25 to the Business and Professions Code, relating to licensing requirements.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 25 is added to the Business and Professions Code, to read:

25. Any person applying for a license, registration, or the first renewal of such license, after the effective date of this section, as a licensed marriage, family and child counselor, a licensed clinical social worker or as a licensed psychologist shall, in addition to any other requirements, show by evidence satisfactory to the agency regulating such business or profession, that he or she has completed training in human sexuality as a condition of licensure. Such training shall be creditable toward continuing education requirements as deemed appropriate by the agency regulating such business or profession, and such course shall not exceed more than 50 contact hours.

The Psychology Examining Committee shall exempt any persons whose field of practice is such that they are not likely to have use for this training.

"Human sexuality" as used in this section means the study of a human being as a sexual being and how he or she functions with respect thereto.

The content and length of such training shall be determined by the administrative agency regulating such business or profession and such agency shall proceed immediately upon the effective date of this section to determine what training, and the quality of staff to provide such training, is available and shall report its determination to the Legislature on or before July 1, 1977.

In the event that any licensing board or agency proposes to establish a training program in human sexuality, such board or agency shall first consult with other licensing boards or agencies which have established or propose to establish a training program in human sexuality to insure that such programs are compatible in scope and content.

SEC. 2. This act shall become operative January 1, 1978.

CHAPTER 1434

An act to add Section 2192.3 to, and to amend Sections 2101.6 and 2192 of, the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976.]

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

SECTION 1. Section 2101.6 of the Business and Professions Code is amended 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. In determining its requirement, the board shall consider including a course of human sexuality as defined in Section 2192.3, to be taken by persons in those forms of practice, general or special, where there is any likelihood, to be determined by the Division of Licensing, of related questions being asked of them.

SEC. 2. Section 2192 of the Business and Professions Code is amended to read:

2192. Each applicant shall show by evidence satisfactory to the board that he has successfully completed a medical curriculum extending over a period of at least four academic years in a school or schools located in the United States or Canada and approved by the board, or in a school that is under the charter of a university located in the United States and that is or was, at the time an applicant seeking a certificate pursuant to this chapter entered the school, an institutional member of the American Association of Medical Colleges approved by the board, and total number of hours of all courses shall consist of a minimum of 4,000 hours. The curriculum for all applicants who matriculate before September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
  Embryology
  Histology
  Neuroanatomy
Physiology
Psychobiology
Medicine
  Pediatrics
Psychiatry
Neurology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Biochemistry
Pathology, bacteriology
  and immunology
Pharmacology
Preventive medicine
  Hygiene and sanitation
Surgery, including
  orthopedic surgery

Urology
Ophthalmology
Radiology
Anesthesia
Otolaryngology
Obstetrics and gynecology

The curriculum for all applicants who matriculate on or after September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
Embryology
Histology
Neuroanatomy
Physiology
Biochemistry
Pathology, bacteriology and immunology
Pharmacology
Preventive medicine
Radiology, including radiation safety
Medicine
Pediatrics
Psychiatry
Neurology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Surgery, including orthopedic surgery
Urology
Ophthalmology
Anesthesia
Otolaryngology
Obstetrics and gynecology
Human sexuality as defined in Section 2192.3

Before a physician's and surgeon's license may be issued each applicant must show by evidence satisfactory to the board that he has completed a year's service satisfactory to the board in a hospital approved by the board for first-year postgraduate studies. At the discretion of the board the written examination provided for in Section 2288 may be taken following completion of his medical course and prior to the granting of a degree by the school; provided, that a certificate shall not be issued to any applicant until satisfactory evidence is filed with the board that a degree has been issued to him by the school.

SEC. 3. Section 2192.3 is added to the Business and Professions Code, to read:

2192.3. "Human sexuality" as used in Sections 2101.6 and 2192 means the study of a human being as a sexual being and how he or she functions with respect thereto.

The board shall determine the content and length of training in human sexuality, and the board shall proceed immediately upon the effective date of this section to determine what training, and the quality of staff to provide such training, is available. The board shall report its determinations to the Legislature on or before July 1, 1977.

In the event that any licensing board or agency proposes to establish a training program in human sexuality, such board or agency shall first consult with other licensing boards or agencies which have established or propose to establish a training program in human sexuality to insure that such programs are compatible in scope and content.

SEC. 2. Sections 1 and 2 of this act shall become operative on and after January 1, 1978.

CHAPTER 1435

An act to amend Section 830.3 of the Penal Code, relating to peace officers.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 830.3 of the Penal Code, as amended by Chapter 42 of the Statutes of 1976, 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) (1) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code are peace officers. The authority of any such peace officers 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.

(2) Other deputies of the Department of Fish and Game deputized pursuant to Section 851 of the Fish and Game Code, and county fish and game wardens deputized pursuant to Section 875 of such code, are peace officers, provided that the exclusive duty of such deputies or county fish and game wardens shall be the enforcement of the provisions of the Fish and Game Code and the regulations made pursuant thereto.

(f) The State Forester and such employees or classes of employees of the Division of Forestry of the Department of Conservation and voluntary firewardens 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 or fire protection agency of the state, or a county, city, or district 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 primary duty, except as provided in Section 8597 of the Government Code, of fire department or fire protection agency members other than arson investigators when acting as peace officers shall be the enforcement of laws relating to fire prevention and fire suppression. 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. 2. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties; and that there be no change in the status of individual peace officers or classes of peace officers for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

SEC. 3. Section 830.3 of the Penal Code as amended by Chapter 42 of the Statutes of 1976, 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

04202 295290 967

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) (1) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code are peace officers. The authority of any such peace officers 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.

(2) Other deputies of the Department of Fish and Game deputized pursuant to Section 851 of the Fish and Game Code, and county fish and game wardens deputized pursuant to Section 875 of such code, are peace officers, provided that the exclusive duty of such deputies or county fish and game wardens shall be the enforcement of the provisions of the Fish and Game Code and the regulations made pursuant thereto.

(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 or fire protection agency of the state, or a county, city, or district 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 primary duty, except as provided in Section 8597 of the Government Code, of fire department or fire protection agency members other than arson investigators when acting as peace officers shall be the enforcement of laws relating to fire prevention and fire suppression. 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) All investigators of the State Department of Health are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of the State Department of Health. Notwithstanding the provisions of Section

171c, 171d, 12027, or 12031, the investigators shall not carry firearms.

(q) The authority of any peace officer listed in subdivisions (c) through (p), 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. 4. It is the intent of the Legislature, if this bill and Senate Bill No. 1978 are both chaptered and become effective January 1, 1977, both bills amend Section 830.3 of the Penal Code, and this bill is chaptered after Senate Bill No. 1978, that the amendments to Section 830.3 proposed by both bills be given effect and incorporated in Section 830.3 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill No. 1978 are both chaptered and become effective January 1, 1977, both amend Section 830.3, and this bill is chaptered after Senate Bill No. 1978, in which case Section 1 of this act shall not become operative.

CHAPTER 1436

An act to amend Sections 244, 8310, 9359.1, 9374, 13970, 13972, 18973, 18974, 18974.5, 19702, 19704, 21251.13, 21264.6, 21364, 21365.5, 21366, 21382, 31620, 31639.1, 31676.1, 31676.11, 31676.12, 31676.13, 31676.14, 31676.15, 31809, 31842, 31844, 31873, 50879, 50880, 50881, 54091, and 54092 of, and to add Sections 12.5, 20600.1, 20750.92 45301.5, and 53216.7 to, the Government Code, relating to gender, and making an appropriation therefor.

[Approved by Governor September 30, 1976. Filed with Secretary of State September 30, 1976.]

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

0 1891 29 5 345 978

SECTION 1. Section 12.5 is added to the Government Code, to read:

12.5. The Legislature hereby declares its intent that the terms "man" or "men" where appropriate shall be deemed "person" or "persons" and any references to the terms "man" or "men" in sections of this code be changed to "person" or "persons" when such code sections are being amended for any purpose. This act is declaratory and not amendatory of existing law.

SEC. 1.5. Section 244 of the Government Code is amended to read:

244. In determining the place of residence the following rules shall be observed:

(a) It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.

(b) There can only be one residence.

(c) A residence cannot be lost until another is gained.

(d) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of such unmarried minor child.

(e) The residence of an unmarried minor who has a parent living cannot be changed by his or her own act.

(f) The residence can be changed only by the union of act and intent.

(g) A married person shall have the right to retain his or her legal residence in the State of California notwithstanding the legal residence or domicile of his or her spouse.

SEC. 2. Section 8310 of the Government Code is amended to read:

8310. The inclusion of any question relative to an applicant's race, sex, marital status, or religion in any application blank or form required to be filled in and submitted by an applicant to any department, board, commission, officer, agent, or employee of this state is prohibited.

Any person who violates this section is guilty of a misdemeanor.

Notwithstanding the provisions of this section, subsequent to employment, gender and marital status data may be obtained and maintained for research and statistical purposes when safeguards preventing misuse of the information exist, as approved by the State Fair Employment Practice Commission, except that in no event shall any notation, entry, or record of such data be made on papers or records relating to such employment application.

SEC. 3. Section 9359.1 of the Government Code is amended to read:

9359.1. (a) The retirement allowance for a member all of whose credited service was rendered as a Member of the Senate or Assembly except as provided in subdivision (d) is an annual amount equal to five percent (5%) of the compensation payable, at the time payments of the allowance fall due, to incumbent Members of the

Senate or Assembly, multiplied by the number of years of service with which the member is entitled to be credited at the time of his retirement, not to exceed fifteen (15) years. In no event shall any retirement allowance payable under this chapter to any such member exceed the compensation payable to Members of the Legislature at the time the payment of the allowance is made, except that the retirement allowance of any such member who serves more than 15 years shall be increased by an amount equal to 3 percent of the compensation payable, at the time payment of the allowance falls due, to incumbent Members of the Senate or Assembly for each year or fraction of a year in excess of 15 years.

(b) The retirement allowance for a member all of whose credited service was rendered as an elective officer of the state whose office is provided for by the Constitution other than a judge (and other than a Member of the Senate or Assembly) the sum of (1) is an annual amount equal to five percent (5%) of the highest compensation received by the officer while serving in such office, multiplied by the number of years of service with which the member is entitled to be credited at the time of his retirement, not to exceed eight (8) years, plus, if the member is credited with 24 or more years of service, (2) one and two-thirds percent (1⅔%) of the compensation to which the five percent (5%) rate is applicable under subparagraph (1) of this subdivision for his first eight years of credited service, multiplied by the number of years of service in excess of eight years with which the member is entitled to be credited at the time of his retirement, not to exceed 12 years of such credited service in excess of the eight years of service referred to in subparagraph (1) of this subdivision.

(c) The retirement allowance for a member part of whose credited service was rendered as a Member of the Senate or Assembly and part of whose credited service was rendered as an elective officer of the state whose office is provided for by the Constitution, other than a judge (and other than a Member of the Senate or Assembly) is the sum of (1) an annual amount equal to five percent (5%) of all the compensation, at the time payment of the allowance falls due, to the officer holding the highest salaried office which the member held at any time during his service prior to retirement, multiplied by the number of years of service with which the member is entitled to be credited at the time of his retirement, not to exceed eight (8) years, plus, if the member is credited with 24 or more years of service, (2) one and two-thirds percent (1⅔%) of the compensation to which the five percent (5%) rate is applicable under subparagraph (1) of this subdivision for his first eight years of credited service, multiplied by the number of years of service rendered as an elective officer of the state whose office is provided for by the Constitution, other than a judge and other than a Member of the Senate or Assembly, with which the member is entitled to be credited at the time of his retirement, not to exceed 12 years of such credited service in excess of the eight years referred

01891 295370 983

to in subparagraph (1) of this subdivision. If, however, the member would be entitled to receive a greater allowance under subdivision (a), (b), or (d) of this section if all of his credited service had been rendered as a Member of the Senate or Assembly or as an elective officer of the state whose office is provided for by the Constitution other than a judge (and other than a Member of the Senate or Assembly), then all of his credited service shall be deemed to have been rendered as a Member of the Senate or Assembly or as such other elective officer, and he shall receive a retirement allowance computed under subdivision (a), (b), or (d) of this section, whichever is greater.

(d) The retirement allowance for a member, all of whose service was rendered as a Member of the Senate or Assembly, who is the surviving spouse of a deceased Member of the Senate or Assembly and who becomes the immediate successor in office of such deceased Member of the Senate or Assembly is an annual amount equal to five percent (5%) of the compensation payable, at the time the payments of the allowance fall due, to incumbent Members of the Senate or Assembly, multiplied by the number of years of service with which the member is entitled to be credited at the time of retirement plus the number of years of service as a Member of the Senate or Assembly rendered by the member's deceased husband or wife plus any period in the term, for which the deceased member was elected, following his or her death, not to exceed fifteen (15) years. In no event shall any retirement allowance payable under this chapter to any such member exceed the compensation payable to Members of the Legislature at the time the payment of the allowance is made, except that the retirement allowance of any such member, whose total service creditable under this subdivision is in excess of fifteen (15) years, shall be increased by an amount equal to 3 percent of the compensation payable, at the time payment of the allowance falls due, to incumbent Members of the Senate or Assembly for each year or fraction of a year in excess of fifteen (15) years. This same computation of total service creditable shall be used as a basis in determining eligibility for retirement, under Sections 9359 and 9359.16, of a member described in this subdivision. Any member to whom this subdivision applies shall redeposit an amount equal to the contributions which were required to be contributed by his or her deceased spouse while he or she was a member of the system for his or her service, computed on the basis of the salary and rate of contribution in effect at the time such service was rendered, or would have been rendered, in the Legislators' Retirement Fund on account of the service of his or her deceased spouse in order to use such service for the purposes of this section and Sections 9359 and 9359.16.

The amendments to this section enacted at the 1969 Regular Session shall apply with respect to any member who retired or retires, or died or dies while eligible to retire on or after May 1, 1969, and any allowance payable with respect to such a member who

01891 295390 987

retired or died prior to the effective date of such amendment, shall be adjusted effective from the date of retirement or death to the amount it would have been had such amendment been in effect on such date.

The provisions of Sections 9359.11 and 9359.12 of this code shall control over any conflicting provisions of this section.

The amendments to this section during the 1973–74 Second Extraordinary Session shall not be applicable to members who are retired on the effective date of such amendments.

SEC. 4. Section 9374 of the Government Code is amended to read:

9374. Upon the death of a member before retirement (a) the surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 18 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of such age, or if there is no such spouse, then (b) the guardian of surviving unmarried children, including stepchildren, of the member who are under 18 years of age or so incapacitated, if any, or (c) the surviving wife or surviving husband of the member, who does not qualify under (a) of this subdivision, if any, or if no such children under (b) or such spouse under (c), then (d) each surviving parent of the member, shall be paid the following applicable survivor allowance, under the conditions stated and from contributions of the state:

(1) A widow or a widower who was married to such member prior to the occurrence of the injury or onsent of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member under 18 years of age or so incapacitated, shall be paid three hundred sixty dollars ($360) if there is one such child, or four hundred thirty dollars ($430) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of one hundred eighty dollars ($180) per month, shall be divided equally among all such children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if such surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member under 18 years of age, or if there are such children not in the care of such spouse, such children shall be paid an allowance as follows:

(a) If there is only one such child, such child shall be paid one hundred eighty dollars ($180) per month;

(b) If there are two such children, such children shall be paid three hundred sixty dollars ($360) per month divided equally between them; and

(c) If there are three or more such children, such children shall

be paid four hundred thirty dollars ($430) per month divided equally among them.

(3) A widow or widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to such member prior to the occurrence of the injury or onset of the illness which resulted in death, and has not remarried subsequent to the member's death, shall be paid one hundred eighty dollars ($180) per month. No allowance shall be paid under this subdivision, while the surviving spouse is receiving an allowance under subdivision (1) of this section, or while an allowance is being paid under subdivision (2) (c) of this section. The allowance paid under this subdivision shall be seventy dollars ($70) per month while an allowance is being paid under subdivision (2) (b) of this section.

(4) If there is no surviving spouse, or surviving children who qualify for a survivor allowance, or if such surviving spouse dies or remarries, or if such children reach age 18 or die or marry prior thereto, each of the member's dependent mother and father who has attained or attains the age of 62 years, and who received at least one-half of his support from the member at the time of the member's death, shall be paid one hundred eighty dollars ($180) per month.

"Stepchildren", for purposes of this section, shall include only stepchildren of the member living with him in a regular parent-child relationship at the time of his death.

SEC. 5. Section 13970 of the Government Code is amended to read:

13970. Direct action on the part of private citizens in preventing the commission of crimes against the person or property of others, or in apprehending criminals, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, benefits the entire public. In recognition of the public purpose served, the state may indemnify such citizens, their surviving spouses, their surviving children, and any persons dependent upon such citizens for their principal support in appropriate cases for any injury, death, or damage sustained by such citizens, their surviving spouses, their surviving children, and any persons dependent upon such citizens for their principal support as a direct consequence of such meritorious action to the extent that they are not compensated for the injury, death, or damage from any other source. A claim shall be denied if an award has been made under Article 1 (commencing with Section 13960) of this chapter for the same incident.

SEC. 6. Section 13972 of the Government Code is amended to read:

13972. In the event a private citizen incurs personal injury or death or damage to his or her property in preventing the commission of a crime against the person or property of another, in apprehending a criminal, or in materially assisting a peace officer in prevention of a crime or apprehension of a criminal, or rescuing a person in immediate danger of injury or death as a result of fire,

drowning, or other catastrophe, the private citizen, his or her surviving spouse, his or her surviving children, a person dependent upon such citizen for his or her principal support, or a public safety or law enforcement agency acting on behalf of any of the above may file a claim with the State Board of Control for indemnification to the extent that the claimant is not compensated from any other source for such injury, death, or damage. The claim shall generally show:

(a) The date, place and other circumstances of the occurrence or events which gave rise to the claim;

(b) A general description of the activities of the private citizen in prevention of a crime, apprehension of a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe;

(c) The amount or estimated amount of the injury, death, or damage sustained for which the claimant is not compensated from any other source, insofar as it may be known at the time of the presentation of the claim;

(d) Such other information as the Board of Control may require.

The claim shall be accompanied by a corroborating statement and recommendation from the appropriate state or local public safety or law enforcement agency.

SEC. 7. Section 18973 of the Government Code is amended to read:

18973. In the case of all other entrance examinations, a veteran with 30 days or more of service and widows or widowers of veterans who become eligible for certification from eligible lists by attaining the passing mark established for the examination, shall be allowed one of the following additional credits:

(a) Disabled veterans, 15 points.

(b) All other veterans and widows or widowers of veterans, 10 points.

For the purpose of this section, "veteran" means any person who has served full time for 30 days or more in the armed forces in time of war or in time of peace in a campaign or expedition for service in which a medal has been authorized by the government of the United States, or during the period September 16, 1940, to January 31, 1955, or who has served at least 181 consecutive days since January 31, 1955, and who has been discharged or released under conditions other than dishonorable, but does not include any person who served only in auxiliary or reserve components of the armed forces whose service therein did not exempt him or her from the operation of the Selective Training and Service Act of 1940.

For the purpose of this section the termination of World War II shall be considered as of midnight, December 31, 1946.

For the purpose of this section "disabled veteran" means any veteran as defined herein who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of his service. Proof of such disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

0 1891 29 5 445 998

SEC. 8. Section 18974 of the Government Code is amended to read:

18974. Such credit shall be added to the percentage attained in the examination by the veteran, widow or widower. The name of each shall be placed on the eligible list and he or she is eligible for appointment in the order and on the basis of the percentage attained in examination after the appropriate credit has been added. All ties shall be decided in favor of veterans and widows of veterans.

SEC. 9. Section 18974.5 of the Government Code is amended to read:

18974.5. Any member of the armed forces who successfully passes any state civil service examination and whose name as a result is placed on an employment list and who within six months after the establishment of the employment list for which such examination was given qualifies for veteran's preference as provided for in Section 18973 shall be allowed the appropriate veterans' credit to the same effect as though he or she were entitled to said credit at the time of the establishing of such employment list. When and if such person is allowed veterans' credit under this section his or her name shall be placed on such employment list in accordance with Section 18937 as the employment list stands at the time of qualifying for veterans' credit.

SEC. 10. Section 19702 of the Government Code is amended to read:

19702. A person shall not be discriminated against under this part because of sex, race, religious creed, color, national origin, ancestry, or marital status.

SEC. 11. Section 19704 of the Government Code is amended to read:

19704. It is unlawful to require, permit or suffer any notation or entry to be made upon or in any application, examination paper or other paper, book, document, or record used under this part indicating or in any wise suggesting or pertaining to the race, color, religion, sex, or marital status of any person. Notwithstanding the provisions of this section, subsequent to employment, ethnic, marital status, and gender data may be obtained and maintained for research and statistical purposes when safeguards preventing misuse of the information exist as approved by the Fair Employment Practices Commission except that in no event shall any notation, entry, or record of such data be made on papers or records relating to the examination, appointment, or promotion of an individual.

SEC. 12. Section 20600.1 is added to the Government Code, to read:

20600.1. Notwithstanding any other provision of this part, separate rates of contributions for male and female members shall not be established or maintained, nor shall different benefit factors be established for male and female members in the same category.

SEC. 13. Section 20750.92 is added to the Government Code, to read:

20750.92. The contribution of an employer to the retirement fund in respect to miscellaneous and industrial members provided by any and all provisions of this part is increased by a sum equal to 0.08 percent of the compensation paid such members by such employer.

SEC. 14. Section 21251.13 of the Government Code, as amended by Chapter 157 of the Statutes of 1975, is amended to read:

21251.13. The combined current and prior service pensions for a local miscellaneous member, a school member, and for a state miscellaneous member, is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of state miscellaneous member or local miscellaneous member or school member, with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50	.546
50¼	.554
50½	.562
50¾	.570
51	.578
51¼	.586
51½	.595
51¾	.603
52	.612
52¼	.621
52½	.630
52¾	.639
53	.648
53¼	.658
53½	.668
53¾	.678
54	.688
54¼	.698
54½	.709
54¾	.719
55	.730
55¼	.741
55½	.753
55¾	.764
56	.776
56¼	.788

56½	.800
56¾	.813
57	.825
57¼	.839
57½	.852
57¾	.865
58	.879
58¼	.893
58½	.908
58¾	.923
59	.937
59¼	.953
59½	.969
59¾	.985
60	1.000
60¼	1.017
60½	1.034
60¾	1.050
61	1.067
61¼	1.084
61½	1.101
61¾	1.119
62	1.136
62¼	1.154
62½	1.173
62¾	1.191
63 and over	1.209

The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation which does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system or for service after the effective date of coverage under the federal system in the case of a member who on the date preceding the operative date of amendments to this section at the 1971 Regular Session was subject to the reduction provided in Section 21251.14 with respect only to service from such effective date. This reduction shall not apply to a member who, on the day preceding such operative date, was subject to Section 21251.1 but not Section 21251.14 with respect to service covered under the federal system, or to a member employed by a contracting agency which enters into a contract after such operative date and elects not to be subject to this paragraph or with respect to service rendered after the termination of the federal-state agreement with respect to the coverage group to which the member belongs.

This section shall apply only to members whose retirement is effective on or after the operative date of amendments to this section at the 1971 Regular Session and as to such members and as of such date shall supersede Sections 21251.1, 21251.14, and 21252.001,

whichever was then applicable to such members.

The improved retirement allowance provided by this section is granted subject to future reduction prior to a member's retirement, by offset of federal system benefits or otherwise, as the Legislature may from time to time deem appropriate because of changes in such federal system benefits.

SEC. 14.5. Section 21251.13 of the Government Code is amended to read:

21251.13. The combined current and prior service pensions for a local miscellaneous member, a school member, and for a state miscellaneous member, is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of state miscellaneous member or local miscellaneous member or school member, with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50	.546
50¼	.554
50½	.562
50¾	.570
51	.578
51¼	.586
51½	.595
51¾	.603
52	.612
52¼	.621
52½	.630
52¾	.639
53	.648
53¼	.658
53½	.668
53¾	.678
54	.688
54¼	.698
54½	.709
54¾	.719
55	.730
55¼	.741
55½	.753
55¾	.764
56	.776

56¼	.788
56½	.800
56¾	.813
57	.825
57¼	.839
57½	.852
57¾	.865
58	.879
58¼	.893
58½	.908
58¾	.923
59	.937
59¼	.953
59½	.969
59¾	.985
60	1.000
60¼	1.017
60½	1.034
60¾	1.050
61	1.067
61¼	1.084
61½	1.101
61¾	1.119
62	1.136
62¼	1.154
62½	1.173
62¾	1.191
63 and over	1.209

The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation which does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system or for service after the effective date of coverage under the federal system in the case of a member who on the day preceding the operative date of amendments to this section at the 1971 Regular Session was subject to the reduction provided in Section 21251.14 with respect only to service from such effective date. This reduction shall not apply to a member who, on the day preceding such operative date, was subject to Section 21251.1 but not Section 21251.14 with respect to service covered under the federal system, or to a member employed by a contracting agency which enters into a contract after such operative date and elects not to be subject to this paragraph or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

This section shall apply only to members whose retirement is effective on or after the operative date of amendments to this section at the 1971 Regular Session and as to such members and as of such

date shall supersede Sections 21251.1, 21251.14, and 21252.001, whichever was then applicable to such members.

The improved retirement allowance provided by this section is granted subject to future reduction prior to a member's retirement, by offset of federal system benefits or otherwise, as the Legislature may from time to time deem appropriate because of changes in such federal system benefits.

SEC. 15. Section 21264.6 of the Government Code is amended to read:

21264.6. Any provision of this article (commencing with Section 21250) imposing as a condition for payment of an allowance to a surviving spouse that he or she have been married to the member for at least one year prior to retirement shall be deemed satisfied if the member was required to retire because of attainment of mandatory retirement age within one year following an amendment to the retirement law or the contracting agency's contract lowering the mandatory retirement age for his or her category of membership, and the surviving spouse was married to the member on the date of such amendment.

SEC. 16. Section 21364 of the Government Code is amended to read:

21364. The special death benefit consists of:

(a) An amount equal to and derived from the same source as the basic death benefit exclusive of the contributions from which the annuity provided under subdivision (c) of this section is paid; and

(b) An amount sufficient, when added to the amount provided under subdivision (a) of this section, to provide, when applied according to tables adopted by the board, a monthly death allowance, equal to one-half of his or her final compensation in the membership category applicable to him or her at the time of the injury or the onset of the disease causing death, payable to the surviving spouse to whom he or she was married prior to sustaining the injury or disease resulting in death, as long as such spouse lives or until his or her remarriage; or if there is no surviving spouse or if such spouse dies or remarries before all children of the deceased member attain age 18, to his or her children under 18 collectively until every child shall have died, married, or attained age 18; provided, that no child shall receive any part of the allowance after marrying or attaining age 18. During the lifetime of the surviving spouse or until such spouse remarries, an additional percentage of the death benefit allowed by this section, exclusive of the annuity under subdivision (c), shall be paid to such spouse of a member who is killed in the performance of his or her duty or who dies as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of his or her duty, for each of his or her children during the lifetime of the child, or until the child marries or reaches the age of 18, as follows: for one child, twenty-five percent (25%); for two children, forty percent (40%); and for three or more children, fifty percent (50%); and

(c) An annuity which is the actuarial equivalent, assuming monthly payments for life to the surviving spouse, of the deceased's accumulated additional contributions at the date of his or her death, plus his or her accumulated contributions at that date based on compensation earned in any membership category other than the category applicable to him or her at the time of the injury or the onset of the disease causing death.

In the event the surviving spouse does not have custody of the member's children, the additional amount payable pursuant to this section shall be payable to the person having custody of the children for each child during the lifetime of the child, or until the child marries or reaches the age of 18.

The computation for time prior to entering the membership category applicable to the deceased at the time of the injury or the onset of the disease causing death shall be based on the compensation earnable by him or her in the position first held by him or her in that category.

"Spouse" for purposes of this section means a wife or husband.

(d) On and after October 1, 1965, the provisions of this section shall apply to all contracting agencies and to the employees of all contracting agencies whether or not such agencies have previously elected to be subject to the provisions of this section.

Any child whose eligibility for an allowance pursuant to this section, commenced on or after October 1, 1965, shall lose that eligibility effective on the date of his adoption.

SEC. 17. Section 21365.5 of the Government Code, as amended by Chapter 234 of the Statutes of 1975, is amended to read:

21365.5. Upon the death of a member who has attained the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, and who is credited with five or more years of state service and in circumstances in which the basic death benefit is payable other than solely that of membership in a county retirement system, or a retirement system maintained by the university, a monthly allowance equal to one-half of and derived from the same source as the unmodified retirement allowance which the member would have been entitled to receive if he or she had retired for service on the date of his or her death shall be payable:

(a) To the surviving wife of a male member as long as she lives or until her remarriage; or

(b) To a surviving husband of a female member as long as he lives or until remarriage; or

(c) To the children under age 18 collectively if there is no surviving spouse or if the surviving spouse dies or remarries before all children of the deceased member attain age 18, until every child dies or attains age 18; provided, that no child shall receive any allowance after marrying or attaining the age of 18.

Where a member does not have a surviving spouse nor any children under the age of 18 years at the time of death, no allowance

shall be payable under this section.

No allowance shall be payable under this section if a special death benefit is payable.

The allowance provided by this section shall be paid in lieu of the basic death benefit but a person, or such person's guardian, qualifying for the allowance may elect before the first payment on account of it to receive such basic death benefit in lieu of the allowance.

Any person who is receiving the allowance under this section on October 1, 1959, shall have the right to elect, not later than ninety (90) days after the date upon which notice of such right is mailed to him or her by this system, to receive in lieu of further payments of the allowance, a sum equal to the excess of the basic death benefit which was otherwise payable on account of the member's death over the sum of the monthly payments made prior to such election.

If the total of the payments made hereunder is less than the basic death benefit which was otherwise payable on account of the member's death, the amount of the basic death benefit less any payments made pursuant to this section shall be paid in a lump sum as follows:

(a) If the person last entitled to the allowance is the remarried spouse of such member, to such spouse;

(b) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to the allowance.

The board shall compute the amount by which benefits paid pursuant to this section exceed the benefits which would otherwise be payable and shall charge any such excess against the contributions of the state so that there shall be no increase in contributions of members by reason of benefits paid pursuant to this section. As used in this section, "a surviving wife" means a wife that was married to the member for at least one year prior to his death, a "surviving husband" means a husband that was married to the member for at least one year prior to the member's death, and "child" includes a posthumously born child of the member.

On and after the operative date of the amendment to this section at the 1971 Regular Session, this section shall apply to all contracting agencies and to the employees of such agencies with respect to deaths occurring after such operative date, whether or not such agencies have previously elected to be subject to this section.

SEC. 18. Section 21366 of the Government Code is amended to read:

21366. If payment of the special death benefit is stopped because of remarriage of the surviving spouse or attainment of the age of 18 years by a child, before the sum of the monthly payment made, exclusive of the annuity derived from the accumulated additional contribution of the deceased, equals the basic death benefit, a lump sum equal to the difference shall be paid the remarried surviving spouse, or if there is no such surviving spouse, to the surviving

children of the deceased member, share and share alike. In such event, or if there is no such surviving spouse, the accumulated additional contributions of the deceased, as they were at his or her death, less the annuity paid as derived from such contributions, and plus interest credited to the accumulated additional contributions, shall be paid in the manner provided in this article for the payments of amounts due in the absence of a designated beneficiary.

SEC. 19. Section 21382 of the Government Code is amended to read:

21382. If the death benefit provided by Section 21361 is payable on account of a member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, (a) the surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 18 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of such age, or if there is no such spouse, then (b) the guardian of surviving unmarried children, including stepchildren, of the member who are under 18 years of age or so incapacitated, if any, or (c) the surviving wife or surviving husband of the member, who does not qualify under (a) of this subdivision, if any, or if no such children under (b) or such spouse under (c), then (d) each surviving parent of the member, shall be paid regardless of the benefit provided by Section 21361, and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable survivor allowance, under the conditions stated and from contributions of the state:

(1) A widow or a widower who was married to such member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member under 18 years of age or so incapacitated, shall be paid three hundred sixty dollars ($360) if there is one such child, or four hundred thirty dollars ($430) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of one hundred eighty dollars ($180) per month, shall be divided equally among all such children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if such surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member under 18 years of age, or if there are such children not in the care of such spouse, such children shall be paid an allowance as follows:

(a) If there is only one such child, such child shall be paid one hundred eighty dollars ($180) per month;

(b) If there are two such children, such children shall be paid

three hundred sixty dollars ($360) per month divided equally between them; and

(c) If there are three or more such children, such children shall be paid four hundred thirty dollars ($430) per month divided equally among them.

(3) A widow or widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to such member prior to the occurrence of the injury or onset of the illness which resulted in death, and has not remarried subsequent to the member's death, shall be paid one hundred eighty dollars ($180) per month. No allowance shall be paid under this subdivision, while the surviving spouse is receiving an allowance under subdivision (1) of this section, or while an allowance is being paid under subdivision (2) (c) of this section. The allowance paid under this subdivision shall be seventy dollars ($70) per month while an allowance is being paid under subdivision (2) (b) of this section.

(4) If there is no surviving spouse, or surviving children who qualify for a survivor allowance, or if such surviving spouse dies or remarries, or if such children reach age 18 or die or marry prior thereto, each of the member's dependent mother and father who has attained or attains the age of 62, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid one hundred eighty dollars ($180) per month.

"Stepchildren", for purposes of this section, shall include only stepchildren of the member living with him in a regular parent-child relationship at the time of his death.

The amendments to this section enacted at the 1971 Regular Session shall apply only to survivor allowances payable for time commencing on the operative date of such amendments.

SEC. 19.1. Section 21382 of the Government Code is amended to read:

21382. If the death benefit provided by Section 21361 is payable on account of a member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, (a) the surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 18 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of such age, or if there is no such spouse, then (b) the guardian of surviving unmarried children, including stepchildren, of the member who are under 18 years of age or so incapacitated, if any, or (c) the surviving wife or surviving husband of the member, who does not qualify under (a) of this subdivision, if any, or if no such children under (b) or such spouse under (c), then (d) each surviving parent of the member, shall be paid regardless of the benefit provided by Section 21361, and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable survivor allowance,

under the conditions stated and from contributions of the state:

(1) A widow or a widower who was married to such member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member under 18 years of age or so incapacitated, shall be paid three hundred sixty dollars ($360) if there is one such child, or four hundred thirty dollars ($430) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of one hundred eighty dollars ($180) per month, shall be divided equally among all such children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if such surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member under 18 years of age, or if there are such children not in the care of such spouse, such children shall be paid an allowance as follows:

(a) If there is only one such child, such child shall be paid one hundred eighty dollars ($180) per month;

(b) If there are two such children, such children shall be paid three hundred sixty dollars ($360) per month divided equally between them; and

(c) If there are three or more such children, such children shall be paid four hundred thirty dollars ($430) per month divided equally among them.

(3) A widow or widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to such member prior to the occurrence of the injury or onset of the illness which resulted in death, and has not remarried subsequent to the member's death, shall be paid one hundred eighty dollars ($180) per month. No allowance shall be paid under this subdivision, while the surviving spouse is receiving an allowance under subdivision (1) of this section, or while an allowance is being paid under subdivision (2) (c) of this section. The allowance paid under this subdivision shall be seventy dollars ($70) per month while an allowance is being paid under subdivision (2) (b) of this section.

(4) If there is no surviving spouse, or surviving children who qualify for a survivor allowance, or if such surviving spouse dies or remarries, or if such children reach age 18 or die or marry prior thereto, each of the member's dependent mother and father who has attained or attains the age of 62, and who received at least one-half of his support from the member at the time of the member's death, shall be paid one hundred eighty dollars ($180) per month.

"Stepchildren", for purposes of this section, shall include only stepchildren of the member living with him in a regular parent-child relationship at the time of his death.

The amendments to this section enacted at the 1971 Regular

Session shall apply only to survivor allowances payable for time commencing on the operative date of such amendments.

Beginning April 1, 1977, dollar amounts of benefits prescribed in this section shall be adjusted in accordance with Article 1.5 of this chapter using 1975 as a constant base year. Benefits payable hereunder shall not vary between beneficiaries because of different base years.

SEC. 19.2. Section 31620 of the Government Code, as amended by Chapter 932 of the Statutes of 1975, is amended to read:

31620. The normal rates of contribution of members shall be based on age at the nearest birthday at the time of entrance into the retirement system.

Notwithstanding any provisions of this chapter to the contrary, separate rates of contribution, allowances, or benefits for male and female members shall not be maintained or established.

SEC. 19.3. Section 31639.1 of the Government Code is amended to read:

31639.1. The normal rates of contribution of safety members shall be based on age at the nearest birthday at the time of entrance into the retirement system.

Notwithstanding any other provision of this chapter to the contrary, separate rates of contribution for male and female safety members shall not be maintained or established, nor shall different allowances or benefits be established for male and female members.

SEC. 20. Section 31676.1 of the Government Code, as amended by Chapter 932 of the Statutes of 1975, is amended to read:

31676.1. This section may be made applicable in any county on the first day of the month after the board of supervisors of such county adopts, by majority vote, a resolution providing that this section shall become applicable in such county. Notwithstanding any other provisions of this chapter the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-sixtieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age of Retirement	Fraction
50	.7091
50¼	.7183
50½	.7274
50¾	.7366
51	.7457

51¼	.7547
51½	.7637
51¾	.7726
52	.7816
52¼	.7907
52½	.7999
52¾	.8090
53	.8181
53¼	.8275
53½	.8369
53¾	.8462
54	.8556
54¼	.8656
54½	.8755
54¾	.8855
55	.8954
55¼	.9061
55½	.9168
55¾	.9275
56	.9382
56¼	.9498
56½	.9614
56¾	.9730
57	.9846
57¼	.9972
57½	1.0098
57¾	1.0224
58	1.0350
58¼	1.0487
58½	1.0625
58¾	1.0762
59	1.0899
59¼	1.1049
59½	1.1199
59¾	1.1349
60	1.1500
60¼	1.1611
60½	1.1723
60¾	1.1835
61	1.1947
61¼	1.2097
61½	1.2247
61¾	1.2398
62	1.2548
62¼	1.2707
62½	1.2867
62¾	1.3026
63	1.3186
63¼	1.3355

63½	1.3525
63¾	1.3695
64	1.3865
64¼	1.4047
64½	1.4229
64¾	1.4411
65 and over	1.4593

The fractions herein set forth shall be used until adjusted by each board for its retirement system in accordance with the interest and mortality tables adopted by each such board with respect to its retirement system.

In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

SEC. 21. Section 31676.11 of the Government Code, as amended by Chapter 932 of the Statutes of 1975, is amended to read:

31676.11. This section may be made applicable in any county on the first day of the month after the board of supervisors of such county adopts, by majority vote, a resolution providing that this section shall become applicable in such county. Notwithstanding any other provisions of this chapter the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-sixtieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at Retirement	Fraction
50	.7454
50¼	.7561
50½	.7668
50¾	.7775
51	.7882
51¼	.7998
51½	.8114
51¾	.8230
52	.8346
52¼	.8472
52½	.8598
52¾	.8724
53	.8850
53¼	.8987

53½	.9125
53¾	.9262
54	.9399
54¼	.9549
54½	.9699
54¾	.9849
55	1.0000
55¼	1.0111
55½	1.0223
55¾	1.0335
56	1.0447
56¼	1.0597
56½	1.0747
56¾	1.0898
57	1.1048
57¼	1.1207
57½	1.1367
57¾	1.1526
58	1.1686
58¼	1.1855
58½	1.2025
58¾	1.2195
59	1.2365
59¼	1.2547
59½	1.2729
59¾	1.2911
60	1.3093
60¼	1.3221
60½	1.3350
60¾	1.3479
61	1.3608
61¼	1.3736
61½	1.3865
61¾	1.3994
62	1.4123
62¼	1.4251
62½	1.4380
62¾	1.4509
63	1.4638
63¼	1.4766
63½	1.4895
63¾	1.5024
64	1.5153
64¼	1.5281
64½	1.5410
64¾	1.5539
65	1.5668

In any county operating under this section any limitations in any

provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Wherever in this chapter reference is made to survivorship benefits and rights under Section 31676.1, the same shall apply to this section.

SEC. 22. Section 31676.12 of the Government Code, as amended by Chapter 932 of the Statutes of 1975, is amended to read:

31676.12. This section may be made applicable in any county on the first day of the month after the board of supervisors of such county adopts by majority vote, a resolution providing that this section shall become applicable in such county. Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at Retirement	Fraction
50	.6681
50¼	.6775
50½	.6869
50¾	.6962
51	.7056
51¼	.7156
51½	.7255
51¾	.7355
52	.7454
52¼	.7561
52½	.7668
52¾	.7775
53	.7882
53¼	.7998
53½	.8114
53¾	.8230
54	.8346
54¼	.8472
54½	.8598
54¾	.8724
55	.8850
55¼	.8987
55½	.9125
55¾	.9262

56	.9399
56¼	.9549
56½	.9699
56¾	.9849
57	1.0000
57¼	1.0111
57½	1.0223
57¾	1.0335
58	1.0447
58¼	1.0597
58½	1.0747
58¾	1.0898
59	1.1048
59¼	1.1207
59½	1.1367
59¾	1.1526
60	1.1686
60¼	1.1855
60½	1.2025
60¾	1.2195
61	1.2365
61¼	1.2547
61½	1.2729
61¾	1.2911
62 and over	1.3093

In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Whenever in this chapter reference is made to survivorship and other benefits and rights under Section 31676.1, the same shall apply to this section.

SEC. 23. Section 31676.13 of the Government Code, as amended by Chapter 932 of the Statutes of 1975, is amended to read:

31676.13. Notwithstanding any other provisions of this chapter the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-sixtieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age of Retirement	Fraction
50	.8181
50¼	.8275
50½	.8369
50¾	.8462
51	.8556
51¼	.8656
51½	.8755
51¾	.8855
52	.8954
52¼	.9061
52½	.9168
52¾	.9275
53	.9382
53¼	.9498
53½	.9614
53¾	.9730
54	.9846
54¼	.9972
54½	1.0098
54¾	1.0224
55	1.0350
55¼	1.0487
55½	1.0625
55¾	1.0762
56	1.0899
56¼	1.1049
56½	1.1199
56¾	1.1349
57	1.1500
57¼	1.1611
57½	1.1723
57¾	1.1835
58	1.1947
58¼	1.2097
58½	1.2247
58¾	1.2398
59	1.2548
59¼	1.2707
59½	1.2867
59¾	1.3026
60	1.3186
60¼	1.3355
60½	1.3525
60¾	1.3695
61	1.3865
61¼	1.4047
61½	1.4229

61¾	1.4411
62 and over	1.4593

The fractions herein set forth shall be used until adjusted by each board for its retirement system in accordance with the interest and mortality tables adopted by each such board with respect to its retirement system.

In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

This section shall not be operative in any county until adopted by a resolution of the board of supervisors.

Whenever in this chapter reference is made to the survivorship and other benefits and rights under Section 31676.1, the same shall apply to this section.

SEC. 24. Section 31676.14 of the Government Code, as amended by Chapter 932 of the Statutes of 1975, is amended to read:

31676.14. Notwithstanding any other provisions of this chapter the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-sixtieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at Retirement	Fraction
50	.8850
50¼	.8987
50½	.9125
50¾	.9262
51	.9399
51¼	.9549
51½	.9699
51¾	.9849
52	1.0000
52¼	1.0111
52½	1.0223
52¾	1.0335
53	1.0447
53¼	1.0597
53½	1.0747
53¾	1.0898
54	1.1048

54¼	1.1207
54½	1.1367
54¾	1.1526
55	1.1686
55¼	1.1855
55½	1.2025
55¾	1.2195
56	1.2365
56¼	1.2547
56½	1.2729
56¾	1.2911
57	1.3093
57¼	1.3221
57½	1.3350
57¾	1.3479
58	1.3608
58¼	1.3736
58½	1.3865
58¾	1.3994
59	1.4123
59¼	1.4251
59½	1.4380
59¾	1.4509
60	1.4638
60¼	1.4766
60½	1.4895
60¾	1.5024
61	1.5153
61¼	1.5281
61½	1.5410
61¾	1.5539
62 and over	1.5668

In any county operating under this section any limitations in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Wherever in this chapter reference is made to survivorship benefits and rights under Section 31676.1, the same shall apply to this section.

This section shall not be operative in any county until adopted by a resolution of the board of supervisors.

SEC. 25. Section 31676.15 of the Government Code, as amended by Chapter 932 of the Statutes of 1975, is amended to read:

31676.15. This section may be made applicable in any county which has implemented the provisions of Article 15.6 (commencing with Section 31855). The provisions of this section shall be applicable if a majority of all the members of the board of supervisors vote to adopt a resolution so to do and a majority of the members of the affected class or classes voting at an election held during 1974, with

more than 50 percent of the members participating, favor the termination of retirement benefits under social security. Such resolution may specify a date subsequent to the date of adoption of the resolution as the operative date for this section. Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at Retirement	Fraction
50	.7454
50¼	.7561
50½	.7668
50¾	.7775
51	.7882
51¼	.7998
51½	.8114
51¾	.8230
52	.8346
52¼	.8472
52½	.8598
52¾	.8724
53	.8850
53¼	.8987
53½	.9125
53¾	.9262
54	.9399
54¼	.9549
54½	.9699
54¾	.9849
55	1.0000
55¼	1.0111
55½	1.0223
55¾	1.0335
56	1.0447
56¼	1.0597
56½	1.0747
56¾	1.0898
57	1.1048
57¼	1.1207
57½	1.1367

57¾	1.1526
58	1.1686
58¼	1.1855
58½	1.2025
58¾	1.2195
59	1.2365
59¼	1.2547
59½	1.2729
59¾	1.2911
60	1.3093
60¼	1.3221
60½	1.3350
60¾	1.3479
61	1.3608
61¼	1.3736
61½	1.3865
61¾	1.3994
62	1.4123
62¼	1.4251
62½	1.4380
62¾	1.4509
63	1.4638
63¼	1.4766
63½	1.4895
63¾	1.5024
64	1.5153
64¼	1.5281
64½	1.5410
64¾	1.5539
65	1.5668

In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Whenever in this chapter reference is made to survivorship and other benefits and rights under Section 31676.1, the same shall apply to this section.

SEC. 25.1. Section 31676.15 of the Government Code is amended to read:

31676.15. This section may be made applicable in any county which has implemented the provisions of Article 15.6 (commencing with Section 31855). The provisions of this section shall be applicable if a majority of all the members of the board of supervisors vote to adopt a resolution so to do and a majority of the members of the affected class or classes voting at an election with more than 50 percent of the members participating, favor the termination of retirement benefits under social security. Such resolution may specify a date subsequent to the date of adoption of the resolution as the operative date for this section. Notwithstanding any other

provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement, but in no event shall the total retirement allowance exceed the member's final compensation.

Age at Retirement	Fraction
50	.7454
50¼	.7561
50½	.7668
50¾	.7775
51	.7882
51¼	.7998
51½	.8114
51¾	.8230
52	.8346
52¼	.8472
52½	.8598
52¾	.8724
53	.8850
53¼	.8987
53½	.9125
53¾	.9262
54	.9399
54¼	.9549
54½	.9699
54¾	.9849
55	1.0000
55¼	1.0111
55½	1.0223
55¾	1.0335
56	1.0447
56¼	1.0597
56½	1.0747
56¾	1.0898
57	1.1048
57¼	1.1207
57½	1.1367
57¾	1.1526
58	1.1686
58¼	1.1855
58½	1.2025

58¾	1.2195
59	1.2365
59¼	1.2547
59½	1.2729
59¾	1.2911
60	1.3093
60¼	1.3221
60½	1.3350
60¾	1.3479
61	1.3608
61¼	1.3736
61½	1.3865
61¾	1.3994
62	1.4123
62¼	1.4251
62½	1.4380
62¾	1.4509
63	1.4638
63¼	1.4766
63½	1.4895
63¾	1.5024
64	1.5153
64¼	1.5281
64½	1.5410
64¾	1.5539
65 and over	1.5668

In any county operating under this section any limitation in any provisions of this chapter upon the amount of compensation used for computing rates of contributions shall be disregarded.

Whenever in this chapter reference is made to survivorship and other benefits and rights under Section 31676.1, the same shall apply to this section.

SEC. 25.5. Section 31809 of the Government Code is amended to read:

31809. In any county or district which is not subject to the provisions of Section 31676.1, the current service pension or the current service pension combined with the prior service pension is an additional pension for members purchased by the contributions of the county or district sufficient, when added to the service retirement annuity, to equal the following: (a) with respect to service performed prior to the effective date of this article the fraction of one-sixtieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service or years of current and prior service with which the member is entitled to be credited at retirement; (b) with respect to service performed after the effective date of this article (1) the fraction of one-ninetieth of the first three

hundred fifty dollars ($350) monthly of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service with which the member is entitled to be credited at retirement plus (2) the fraction of one-sixtieth of any remaining portion of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table multiplied by the number of years of current service with which the member is entitled to be credited at retirement.

Age of Retirement	Fraction
50	.5591
50¼	.5683
50½	.5774
50¾	.5866
51	.5957
51¼	.6047
51½	.6137
51¾	.6226
52	.6316
52¼	.6407
52½	.6499
52¾	.6590
53	.6681
53¼	.6775
53½	.6869
53¾	.6962
54	.7056
54¼	.7156
54½	.7255
54¾	.7355
55	.7454
55¼	.7561
55½	.7668
55¾	.7775
56	.7882
56¼	.7998
56½	.8114
56¾	.8230
57	.8346
57¼	.8472
57½	.8598
57¾	.8724
58	.8850
58¼	.8987
58½	.9125
58¾	.9262

01891 296235 84

59	.9399
59¼	.9549
59½	.9699
59¾	.9849
60	1.0000
60¼	1.0111
60½	1.0223
60¾	1.0335
61	1.0447
61¼	1.0597
61½	1.0747
61¾	1.0898
62	1.1048
62¼	1.1207
62½	1.1367
62¾	1.1526
63	1.1686
63¼	1.1855
63½	1.2025
63¾	1.2195
64	1.2365
64¼	1.2547
64½	1.2729
64¾	1.2911
65 and over	1.3093

SEC. 26. Section 31842 of the Government Code is amended to read:

31842. As used in this article "eligible spouse" means an individual who is caring for one or more of the children (as defined in Section 31843) of a deceased member and who is:

(a) The widow or widower of such deceased member, or

(b) The divorced former spouse of such deceased member, from whom he or she was receiving not less than one-half of his or her support at the time of his or her death.

SEC. 27. Section 31844 of the Government Code is amended to read:

31844. As used in this article "parent" means:

The father or mother of the deceased member who at the time of the death of such member was not less than 62 years of age and was receiving not less than one-half of his or her support from the member, and who has not remarried since the member's death.

SEC. 27.1. Section 31873 of the Government Code is amended to read:

31873. Any increases in contributions shall be shared equally between the county or district and the contributing members, with the individual member's contributions based upon the member's age at his or her nearest birthday at time of entrance into the retirement system. The board of supervisors by a majority vote may elect to pay

part of the costs of the contributions which would otherwise be assessed to the individual members.

SEC. 27.5. Section 45301.5 is added to the Government Code, to read:

45301.5. Notwithstanding any provision of this chapter to the contrary, separate rates of contribution for male and female employees shall not be maintained or established, nor shall different allowances or benefits be established for male and female employees.

SEC. 28. Section 50879 of the Government Code is amended to read:

50879. Upon satisfactory proof that a member has lost his or her life in the performance of his or her duty, leaving a surviving spouse or children under age 16, the board shall order an annual pension of one-third the annual salary attached to the rank he or she held at his or her death paid to the spouse during his or her life. If there is no surviving spouse, the pension shall be paid to the children until they attain age 16.

SEC. 29. Section 50880 of the Government Code is amended to read:

50880. If the surviving spouse or a child marries, the pension to such person ceases.

SEC. 30. Section 50881 of the Government Code is amended to read:

50881. If a member dies from natural causes after 10 years of service, his or her surviving spouse or children, or if there are no surviving spouse or children, his or her parents or siblings, shall receive one thousand dollars ($1,000) from the fund.

SEC. 30.1. Section 53216.7 is added to the Government Code, to read:

53216.7. Notwithstanding any other provision of this article to the contrary, separate rates of contribution for male and female employees shall not be maintained or established nor shall different allowances or benefits for male or female employees be maintained or established.

SEC. 31. Section 54091 of the Government Code is amended to read:

54091. Any city, county or other local agency which owns, operates, or controls any public beach shall allow the use of such public beach by all persons regardless of color, race, religion, ancestry, sex, national origin, or residence. Nonresidents of the city, county, or other local agency shall be permitted to use such public beach upon the same terms and conditions as are residents of such city, county, or local agency.

SEC. 32. Section 54092 of the Government Code is amended to read:

54092. Any city, county or other local agency which allows any property owned, operated or controlled by it to be used as a means of access to any public beach shall allow free access over such property to all persons regardless of color, race, religion, ancestry,

sex, national origin or residence.

SEC. 32.5. In furtherance of the declared legislative intent of this act, forms and printed materials used by any public agency, insurer, or person which incorporate the terms "man" or "men" shall be modified to substitute the terms "person" or "persons" only after the present supply of such forms and materials is exhausted.

SEC. 33. It is the intent of the Legislature, if this bill and Assembly Bill No. 3119 are both chaptered and become effective January 1, 1977, both bills amend Section 21251.13 of the Government Code, and this bill is chaptered after Assembly Bill No. 3119, that the amendments to Section 21251.13 proposed by both bills be given effect and incorporated in Section 21251.13 in the form set forth in Section 14.5 of this act. Therefore, Section 14.5 of this act shall become operative only if this bill and Assembly Bill No. 3119 are both chaptered and become effective January 1, 1977, both amend Section 21251.13, and this bill is chaptered after Assembly Bill No. 3119, in which case Section 14 of this act shall not become operative.

SEC. 34. It is the intent of the Legislature, if this bill and Assembly Bill No. 3188 are both chaptered and become effective January 1, 1977, both bills amend Section 21382 of the Government Code, and this bill is chaptered after Assembly Bill No. 3188, that Section 21382 of the Government Code, as amended by Section 19 of this act shall remain operative only until the operative date of Assembly Bill No. 3188, and that on the operative date of Assembly Bill No. 3188 Section 21382 of the Government Code as amended by Section 19 of this act be further amended in the form set forth in Section 19.1 of this act to incorporate the changes in Section 21382 proposed by Assembly Bill No. 3188. Therefore, Section 19.1 of this act shall become operative only if this bill and Assembly Bill No. 3188 are both chaptered and become effective January 1, 1977, both bills amend Section 21382, and this bill is chaptered after Assembly Bill No. 3188, in which case Section 19.1 of this act shall become operative on the operative date of Assembly Bill No. 3188.

SEC. 35. It is the intent of the Legislature, if this bill and Assembly Bill No. 3748 are both chaptered and become effective January 1, 1977, both bills amend Section 31676.15 of the Government Code, and this bill is chaptered after Assembly Bill No. 3748, that the amendments to Section 31676.15 proposed by both bills be given effect and incorporated in Section 31676.15 in the form set forth in Section 25.1 of this act. Therefore, Section 25.1 of this act shall become operative only if this bill and Assembly Bill No. 3748 are both chaptered and become effective January 1, 1977, both amend Section 31676.15, and this bill is chaptered after Assembly Bill No. 3748, in which case Section 25 of this act shall not become operative.

SEC. 36. It is the intent of the Legislature, if this bill and Assembly Bill No. 4012 are both chaptered and become effective on or before January 1, 1977, both bills amend Section 31676.15 of the Government Code, and this bill is chaptered after Assembly Bill No. 4012, that Section 31676.15 of the Government Code, as amended by

Section 1.6 of Assembly Bill No. 4012, be further amended on the effective date of this act in the form set forth in Section 25.1 of this act to incorporate the changes in Section 31676.15 proposed by this bill. Therefore, if this bill and Assembly Bill No. 4012 are both chaptered and become effective on or before January 1, 1977, and Assembly Bill No. 4012 is chaptered before this bill and amends Section 31676.15, Section 25.1 of this act shall become operative on the effective date of this act and Section 25 of this act shall not become operative.

SEC. 37. It is the intent of the Legislature, if this bill and Senate Bill No. 1993 are both chaptered and become effective January 1, 1977, both bills amend Section 31676.15 of the Government Code, and this bill is chaptered after Senate Bill No. 1993, that the amendments to Section 31676.15 proposed by both bills be given effect and incorporated in Section 31676.15 in the form set forth in Section 25.1 of this act. Therefore, Section 25.1 of this act shall become operative only if this bill and Senate Bill No. 1993 are both chaptered and become effective January 1, 1977, both amend Section 31676.15, and this bill is chaptered after Senate Bill No 1993, in which case Section 25 of this act shall not become operative.

SEC. 38. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because this act merely affirms for the state that which has been declared existing law or regulation through action by the federal government.

CHAPTER 1437

An act to repeal Section 25414, and to repeal Article 3 (commencing with Section 1131) of Chapter 4 of Division 4 of, the Education Code, to amend Section 3517 of, to repeal Article 2 (commencing with Section 5200) of Chapter 4 of Division 4 of, Chapter 2 (commencing with Section 23600) of Part 3 of Division 12 of, and Division 14 (commencing with Section 27000) of, and to add Article 2 (commencing with Section 5200) to Chapter 4 of Division 4 of, and Division 14 (commencing with Section 27000) to, the Elections Code, and to repeal Sections 34884 and 61452 of, the Government Code, Sections 6057 and 7122 of the Harbors and Navigation Code, Sections 6489.5, 13846, and 32100.6 of the Health and Safety Code, Sections 5592 and 5782.20 of the Public Resources Code, Sections 11864, 16004, and 22406.5 of the Public Utilities Code, and Sections 30832, 70127, and 71532 of, and Chapter 5 (commencing with Section 41700) of Part 4 of Division 14 of, the Water Code, relating to recall elections.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

03467 29 6300 97

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

SECTION 1. Article 3 (commencing with Section 1131) of Chapter 4 of Division 4 of the Education Code is repealed.

SEC. 1.2. Section 25414 of the Education Code is repealed.

SEC. 1.4. Section 3517 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended to read:

3517. Any qualified registered voter may circulate an initiative or referendum petition within the county or city and county in which the solicitor is a registered voter. Each section of the petition shall bear the name of the county or city and county in which it is circulated. Only qualified registered voters of that county or city and county shall sign such section.

Any circulator may sign the section he or she is circulating as provided in Section 53.

SEC. 1.5. Section 3517 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended to read:

3517. Any qualified registered voter may circulate an initiative or referendum petition anywhere within the state. Each section of the petition shall bear the name of a county or city and county, and only qualified registered voters of that county or city and county shall sign such section.

Any circulator may sign the section he or she is circulating as provided in Section 53.

SEC. 1.6. Article 2 (commencing with Section 5200) of Chapter 4 of Division 4 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is repealed.

SEC. 1.8. Article 2 (commencing with Section 5200) is added to Chapter 4 of Division 4 of the Elections Code, to read:

Article 2. Referendum

5200. The voters of any district, which is a local public entity as defined by Section 900.4 of the Government Code, and to which Section 5150 applies, shall have the right to petition for referendum on legislative acts of such district in the same manner and subject to the same rules as are set forth in Sections 3751, 3752, 3753, 3754 and 3755, except that all computations referred to in those sections and officers of the county mentioned in those sections shall be construed to refer to comparable computations and officers of the district.

5201. The governing board of any district to which Section 5200 applies may refer legislative questions to the voters of the district in the same manner as the board of supervisors may refer county questions pursuant to Section 3750.

5202. The clerk shall preserve the petition in the manner prescribed by Section 3756.

SEC. 2. Chapter 2 (commencing with Section 23600) of Part 3 of Division 12 of the Elections Code is repealed.

SEC. 3. Division 14 (commencing with Section 27000) of the

Elections Code is repealed.

SEC. 4. Division 14 (commencing with Section 27000) is added to the Elections Code, to read:

DIVISION 14. RECALL

CHAPTER 1. GENERAL PROCEDURES: GENERAL PROVISIONS AND INITIAL STEPS IN THE RECALL

Article 1. General Provisions

27000. This division governs the recall of elective officers of the State of California and of all counties, cities, school districts, community college districts, special districts, and judges of courts of appeal and trial courts. It does not supersede the provisions of a city charter, or of ordinances adopted pursuant to a city charter, relating to recall.

27001. For the purposes of this division, judges of courts of appeal shall be considered state officers, and judges of trial courts shall be considered county officers.

27002. For the purposes of this division, "clerk" means the county clerk in the case of the recall of elective officers of a county, school district, community college district, or resident voting district, and of judges of trial courts; the city clerk in the case of the recall of elective officers of a city; and the secretary of the governing board in the case of the recall of elective officers of a landowner voting district or any district in which, at a regular election, candidate's nomination papers are filed with the secretary of the governing board.

27003. For the purposes of this article, "governing board" means a city council, the board of supervisors of a county, the board of trustees of a school district or community college district, or the legislative body of a special district, as the context requires. In the case of the recall of a trial court judge, "governing board" means the board of supervisors.

27004. For the purposes of this division, "electoral jurisdiction" means the area within which the voters reside who are qualified to vote for the officer sought to be recalled.

27005. For the purposes of this division, a "local officer" is an elective officer of a city, county, school district, community college district, or special district, or a judge of a trial court.

27006. The proponents of a recall must be registered voters of the electoral jurisdiction of the officer they seek to recall.

27007. Proceedings may be commenced for the recall of any elective officer by the service, filing and publication or posting of a notice of intention to circulate a recall petition pursuant to this chapter.

27008. Proceedings may not be commenced against the holder of an office if at the time of commencement he has not held office

during his current term, a period of time, which shall be in the following cases:

(a) Ninety days in the case of cities and counties.

(b) Six months in the case of special districts and school districts, including community college districts.

27009. Proceedings may not be commenced against an officer of a city, county or special district if at the time of commencement a recall election has been determined in his favor within the last six months.

27010. Proceedings may not be commenced against an officer of a city or school district, including a community college district, if his term of office ends in less than six months.

Article 2. The Notice of Intention, Statement and Answer

27020. The notice of intention shall contain all of the following:

(a) The name and title of the officer sought to be recalled.

(b) A statement, not exceeding 200 words in length, of the reasons for the proposed recall.

(c) The names and business or residence addresses of at least one but not more than five proponents of the recall.

27021. The notice of intention shall be served personally, or by certified mail, on the officer sought to be recalled. A copy thereof shall be filed, along with an affidavit of the time and manner of service, with the clerk or, in the case of the recall of a state officer, the Secretary of State. A separate notice of intention shall be filed for each officer sought to be recalled.

27022. The notice shall be published at the proponents' expense pursuant to Section 6061 of the Government Code. If such publication is not possible the notice shall be posted in at least three public places within the jurisdiction of the officer to be recalled.

27023. Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the clerk, or in the case of a state officer, the Secretary of State, an answer, in not more than 200 words, to the statement of the proponents. If an answer is filed, the officer shall also serve a copy of it, personally or by certified mail, on one of the proponents named in the notice of intention.

27024. The statement and answer are intended solely for the information of the voters. No insufficiency in form or substance thereof shall affect the validity of the election proceedings.

Article 3. Recall Petition

27030. No signature may be affixed to the petition until the proponents have served, filed and published or posted a notice of intention pursuant to this chapter.

27031. Before any signature may be affixed to a recall petition, the petition must bear all of the following:

(a) A request that an election be called to elect a successor to the officer.

(b) A copy of the notice of intention, including the statement of grounds for recall.

(c) The answer of the officer sought to be recalled, if any. If the officer sought to be recalled has not answered, the petition shall so state.

27032. The petition sections shall be designed so that each signer shall personally affix his or her:

(a) Signature.

(b) Printed name.

(c) Residence address, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(d) Name of incorporated city or unincorporated community.

27033. Separate petitions are necessary to propose the recall of each officer.

27034. The petition may consist of any number of separate sections, which shall be duplicates except as to signatures and matters required to be affixed by signers. The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures.

27035. Only registered voters of the electoral jurisdiction of the officer sought to be recalled are qualified to circulate or sign a recall petition for that officer.

27036. Each section of the petition shall have attached to it an affidavit signed by the circulator of that section of the petition, setting forth all of the following:

(a) The printed name of the affiant.

(b) The residence address of the affiant, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(c) That the affiant circulated that section and saw the appended signatures being written.

(d) That according to the best information and belief of the affiant, each signature is the genuine signature of the person whose name it purports to be.

(e) That the affiant is a registered voter of the electorial jurisdiction of the officer sought to be recalled.

(f) The dates between which all the signatures to the petition were obtained.

27037. When a petition is circulated in more than one county for the recall of an officer, each section of the petition shall bear the name of the county in which it is circulated, and only registered voters of that county may sign that section.

CHAPTER 2. RECALL OF STATE OFFICERS: INTERMEDIATE STEPS IN THE RECALL

27100. This chapter shall apply only to the recall of state officers.

In addition to the provisions contained in this chapter, the provisions of Sections 13 to 18, inclusive, of Article 11 of the Constitution and the applicable provisions of Chapter 1 (commencing with Section 27000) and Chapter 4 (commencing with Section 27300) of this division shall govern the recall of state officers.

27101. Unless and until it is otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of registered voters. Each section of a recall petition shall be filed with the clerk of the county in which it was circulated. Thirty days after a recall has been initiated, and every 30 days thereafter, the clerk shall determine from the records of registration what number of registered voters have signed recall petitions. The said clerk, upon the completion of each examination, shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and submit said petition, except as to the signatures appended thereto, to the Secretary of State and file a copy of said certificate in his office.

27102. When the Secretary of State has received from one or more county clerks a petition certified as herein provided to have been signed by the stated number of registered voters, he shall, within 10 days, transmit to the clerk of every county in the state a certificate showing such fact, and showing the total number of signatures collected by the proponents. Such clerk shall file the certificate for record in his office.

27103. When the Secretary of State determines that the proponents have collected sufficient signatures he shall certify that fact to the Governor.

27104. Upon receiving certification of the sufficiency of the recall petitions from the Secretary of State, the Governor shall make or cause to be made, publication of notice for the holding of such election. Officers charged by law with duties concerning elections shall make all arrangements for such election. The election shall be conducted, returned, and the result declared, in all respects as are other state elections.

CHAPTER 3. RECALL OF LOCAL OFFICERS: INTERMEDIATE STEPS IN THE RECALL

Article 1. General Provisions

27200. This chapter shall apply to the recall of local officers.

27201. When the city or county clerk is the officer sought to be recalled, the duties imposed upon him shall be performed by some other person designated by the governing board.

Article 2. Recall Petitions

27210. A recall petition shall be filed with the clerk within a period of time after the filing of the notice of intention which shall be in the following cases:

(a) One hundred eighty days in the case of counties.

(b) Sixty days in the case of cities.

(c) One hundred twenty days in the case of special districts.

(d) Six months in the case of school districts including community college districts.

27211. The number of qualified signatures required in order to recall an officer shall be as follows:

(a) In the case of landowner voting districts, signatures of voters owning at least 10 percent of the assessed value of land within the jurisdiction of the officer sought to be recalled.

(b) In the case of a judge of a court of appeal or trial court, the number of signatures shall be as is provided for by subdivision (b) of Section 14 of Article II of the Constitution.

(c) In the case of the county officer, signatures equal in number to not less than 20 percent of the total vote cast for all candidates in the last election for the office:

(1) In the county as a whole when the officer was elected by voters throughout the county; or

(2) In a supervisorial district when a supervisor was elected by district.

(d) In the case of a city officer, signatures equal in number to not less than 25 percent of the voters of the city, or in the case of a city councilman elected by district, 25 percent of the voters of the district, according to the county clerk's last official report of registration to the Secretary of State.

(e) In the case of resident voting districts, signatures equal in number to at least 10 percent of the registered voters in such unit, as shown by the list of eligible voters for the district as last reported to the Secretary of State.

(f) In the case of members of governing boards of school districts, including community college districts, signatures equal in number to at least 20 percent of the registered voters of the district as of the date of the county clerk's last official report of registration to the Secretary of State.

27212. Within 20 days from the filing of the recall petition the clerk shall ascertain whether or not the petition was signed by the requisite number of qualified signatures. He shall file with the petition a certificate showing the results of the examination. The clerk shall give the proponents a copy of the certificate upon their request.

27213. If the petition was circulated in more than one county, the clerk of each county shall affix, with the certificate showing the results of his examination, the number of registered voters of his county residing within the electoral jurisdiction of the officer sought

to be recalled.

27214. If the clerk certifies the petition to be insufficient, it may be supplemented within 10 days of the date of certificate by filing additional petition sections identical to the petition originally filed except as to signatures and matters required to be affixed by the signers.

27215. Within 10 days after the supplemental copies are filed, the clerk shall make a certificate showing whether or not the petition as supplemented is sufficient.

27216. If the certificate shows that the petition as supplemented is insufficient, no action shall be taken on it; but the petition shall remain on file.

27217. If the clerk finds the signatures on the petition, together with the supplementary petition sections if any, to be sufficient, he shall submit his certificate as to the sufficiency of the petition to the governing body at its next meeting. The certificate shall contain:

(a) The name of the officer whose recall is sought.
(b) The title of his office.
(c) The number of signatures required by law.
(d) The total number of signatures on the petition.
(e) The number of valid signatures on the petition.
(f) The number of signatures which were disqualified.

Article 3. The Recall Election

27230. Within 14 days of receiving the certificate of sufficiency, the governing body shall issue an order stating that an election shall be held pursuant to this article to determine whether or not the officer named in the petition shall be recalled.

27231. The election shall be held not less than 80 nor more than 125 days after the issuance of the order, and if a regular election is to be held throughout the electoral jurisdiction of the officer sought to be recalled within such time period, the recall election shall be held on the same days, and consolidated with, the regular election.

Chapter 4. General Procedures: Final Steps in the Recall

Article 1. General Provisions

27300. The clerk or, in the case of the recall of a state officer, the Secretary of State, shall preserve in his office all recall petitions filed for eight months after the certification of the results of the election for which the petition qualified or, if no election is held, eight months after the clerks final examination of the petition. Public access to any such petition shall be restricted in accordance with provisions of Section 6253.5 of the Government Code. At the end of the eight-month period, the petition shall be destroyed as soon as practicable, unless it is in evidence in some action or proceeding then

pending or unless a written request is received from the Attorney General, the Secretary of State, a district attorney, a grand jury, or the governing body of a county, city, or district, including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities

27301. No insufficiency in a petition against any officer shall bar the later filing of a new petition against that officer.

27302. If a petition, including supplemental petitions, is found by the clerk or, in the case of the recall of a state officer, the Secretary of State, to lack sufficient signatures, notwithstanding Section 6253.5 of the Government Code, the proponents whose names are listed on the notice of intention shall be allowed to examine the petition in order to determine which signatures were disqualified and the reasons therefor.

27303. If a vacancy occurs in an office after a recall petition is filed against the vacating officer, the recall election shall nevertheless proceed. Such vacancy shall be filled as provided by law, but any person appointed to fill the vacancy shall hold office only until a successor is selected in accordance with Article 4 (commencing with Section 27330) or Article 5 (commencing with Section 27340) of this chapter, and the successor qualifies for that office.

27304. Any voter who has signed a recall petition may have his signature withdrawn from the petition upon filing, prior to the time the petition is filed, a written request with the clerk signed in the presence of, and witnessed and subscribed by, the clerk or one of his deputies. In the case of the recall of a state officer, such request shall be forwarded to the Secretary of State immediately.

Article 2. Ballots

27310. The following shall appear on the ballots at every recall election, except in the case of a landowner voting district, with respect to each officer sought to be recalled:

(a) The question "Shall [name of officer sought to be recalled] be recalled (removed) from the office of [title of office]?"

(b) To the right of the foregoing question, the words "Yes" and "No" on separate lines with an enclosed voting space to the right of each.

27311. In addition to the material contained in Section 27310, the following shall appear on the ballots at a city recall election only:

(a) The question "If the recall prevails shall the (name of legislative body) fill the vacancy or vacancies by appointment or call a special election for that purpose?"

(b) Following the question shall be the words "By appointment" and "By special election" on separate lines with an enclosed voting space to the right of each.

27312. In addition to the material contained in Section 27310, the following shall appear on ballots at all recall elections, except at a city or a landowner voting district recall election:

(a) The names of the candidates nominated to succeed the officer sought to be recalled shall appear under each recall question.

(b) Following each list of candidates, the ballot shall provide one blank line with a voting space to the right of it for the voter to write in a name not printed on the ballot.

27313. A voter shall indicate, by using the stamp or other marking device to place a mark in the voting space opposite either "Yes" or "No", his vote for or against the recall proposal, respectively.

27314. In landowner voting districts the form of the ballot shall be determined by the governing body, but it shall be substantially similar to that prescribed by law for resident voting districts.

27315. The official responsible for preparing the ballot shall, at least 10 days prior to the recall election, mail a sample ballot to each registered voter of the electoral jurisdiction of the officer sought to be recalled.

27316. With the sample ballot there shall be mailed for each officer whose recall is sought, a printed copy of the following:

(a) The statement of reasons for recall which appeared on the notice of intent to recall that was filed by the proponents of the recall with the clerk, or in the case of a state officer, with the Secretary of State.

(b) The answer to the statement of reasons for recall, which was filed by the officer whose recall is sought, with the clerk, or in the case of a state officer, with the Secretary of State, if any answer was filed.

The printed copies of the statement and the answer to that statement shall be mailed with the sample ballot either in a document separate from the sample ballot or in the same document in which the sample ballot appears; provided, however, that both the statement and answer shall be printed on the same page or on facing pages of the document and shall be of equal prominence.

If the recall of more than one officer is sought, the statement and answer for each officer shall be printed together and shall be clearly distinguished from those of any other officer.

Article 3. Elections in General

27320. A recall election shall be conducted, canvassed, and the results declared in substantially the manner provided by law for a regular election for such office.

27321. One election is sufficient for the recall of several officers.

27322. A city or county may provide for the reimbursement of recall election expenses legally and personally incurred by the officer sought to be recalled in the event his recall is not successful.

Article 4. City Recall Elections

27330. This article shall apply only to the recall of city officers.

27331. If one-half or more of the votes at a recall election are

"No", the officer sought to be recalled shall continue in office.

27332. If a majority of the votes on a recall proposal are "Yes" the office shall be deemed vacant.

27333. If the recall prevails and a majority of those voting on the question of filling the vacancy favor a special election for that purpose, the legislative body shall at its next regular meeting call an election to be held to fill the vacancy not less than 74 nor more than 89 days after the date of the order. If a regular municipal election is to occur not more than 104 nor less than 74 days from the date of canvassing the vote the legislative body may provide for filling the vacancy at such regular municipal election instead of at a special election. If a special election is not favored by a majority of the voters, the legislative body shall at once fill the vacancy by appointment. In either case the person elected or appointed shall hold office for the unexpired term of the former incumbent.

27334. If a majority of the legislative body is recalled at the same election, the members recalled shall retain their offices until their successors are elected and qualified. Immediately after the canvass of votes, the clerk shall call a special election to fill the vacancies arising as a result of the recall election, which special election shall be held within 89 days after the canvass of votes of the election at which they were recalled. The duties of the governing body of the city with respect to the holding of such special election shall be performed by the clerk. The vote of the special election shall be canvassed by the clerk, who shall declare the result. If the clerk has also been recalled, then the board of supervisors shall perform his duties.

Article 5. Recall Elections, Other Than City Recall

27340. This article shall apply to the recall of public officers other than city officers.

27341. Nominations of candidates to succeed the recalled officer shall be made in the manner prescribed for nominating a candidate to that office in a regular election insofar as that procedure is consistent with this article. The following exceptions shall be made to that procedure:

(1) The nomination papers and the declaration of candidacy shall, in each case, be filed no less than 59 days prior to the date of the election and not before the day the order of the election is issued.

(2) If the clerk is required to certify to the governing board the names of the candidates to be placed on the ballot, such shall be done by the 54th day prior to the election.

(3) No person whose recall is being sought may be a candidate to succeed himself at a recall election.

27342. No vote cast in the recall election shall be counted for any candidate unless the voter also voted for or against the recall of the officer sought to be recalled.

27343. If one-half or more of the votes at a recall election are

"No", the officer sought to be recalled shall continue in office.

27344. If a majority of the votes on a recall proposal are "Yes" the officer sought to be recalled shall be removed from office upon the qualification of his successor.

27345. If at a recall election an officer is recalled, the candidate receiving the highest number of votes for the office shall be declared elected for the unexpired term of the recalled officer.

27346. If the candidate who received the highest number of votes fails to qualify within 10 days after receiving his certificate of election, the office to which he was elected shall be vacant, and shall be filled according to law.

SEC. 4.5. Chapter 4 (commencing with Section 27300) is added to Division 14 of the Elections Code, to read:

CHAPTER 4. GENERAL PROCEDURES: FINAL STEPS IN THE RECALL

Article 1. General Provisions

27300. The clerk or, in the case of the recall of a state officer, the Secretary of State, shall preserve in his office all recall petitions filed for eight months after the certification of the results of the election for which the petition qualified or, if no election is held, eight months after the clerk's final examination of the petition. Public access to any such petition shall be restricted in accordance with provisions of Section 6253.5 of the Government Code. At the end of the eight-month period, the petition shall be destroyed as soon as practicable, unless it is in evidence in some action or proceeding then pending or unless a written request is received from the Attorney General, the Secretary of State, a district attorney, a grand jury, or the governing body of a county, city, or district, including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities.

27301. No insufficiency in a petition against any officer shall bar the later filing of a new petition against that officer.

27302. If a petition, including supplemental petitions, is found by the clerk or, in the case of the recall of a state officer, the Secretary of State, to lack sufficient signatures, notwithstanding Section 6253.5 of the Government Code, the proponents whose names are listed on the notice of intention shall be allowed to examine the petition in order to determine which signatures were disqualified and the reasons therefor.

27303. If a vacancy occurs in an office after a recall petition is filed against the vacating officer, the recall election shall nevertheless proceed. Such vacancy shall be filled as provided by law, but any person appointed to fill the vacancy shall hold office only until a successor is selected at the recall election.

27304. Any voter who has signed a recall petition may have his signature withdrawn from the petition upon filing, prior to the time

the petition is filed, a written request with the clerk signed in the presence of, and witnessed and subscribed by, the clerk or one of his deputies. In the case of the recall of a state officer, such request shall be forwarded to the Secretary of State immediately.

Article 2. Ballots

27310. The following shall appear on the ballots at every recall election, except in the case of a landowner voting district, with respect to each officer sought to be recalled:

(a) The question "Shall [name of officer sought to be recalled] be recalled (removed) from the office of [title of office]?"

(b) To the right of the foregoing question, the words "Yes" and "No" on separate lines with an enclosed voting space to the right of each.

27311. In addition to the material contained in Section 27310, the following shall also appear on the ballots at every recall election except a state recall election:

(a) The question "If the recall prevails shall the (name of legislative body) fill the vacancy or vacancies by appointment or call a special election for that purpose?"

(b) Following the question shall be the words "By appointment" and "By special election" on separate lines with an enclosed voting space to the right of each.

27312. In addition to the material contained in Section 27310, the following shall appear on ballots only at state recall elections:

(a) The names of the candidates nominated to succeed the officer sought to be recalled shall appear under each recall question.

(b) Following each list of candidates, the ballot shall provide one blank line with a voting space to the right of it for the voter to write in a name not printed on the ballot.

27313. A voter shall indicate, by using the stamp or other marking device to place a mark in the voting space opposite either "Yes" or "No", his vote for or against the recall proposal, respectively.

27314. In landowner voting districts the form of the ballot shall be determined by the governing body, but it shall be substantially similar to that prescribed by law for resident voting districts.

27315. The official responsible for preparing the ballot shall, at least 10 days prior to the recall election, mail a sample ballot to each registered voter of the electoral jurisdiction of the officer sought to be recalled.

27316. With the sample ballot there shall be mailed for each officer whose recall is sought, a printed copy of the following:

(a) The statement of reasons for recall which appeared on the notice of intent to recall that was filed by the proponents of the recall with the clerk, or in the case of a state officer, with the Secretary of State.

(b) The answer to the statement of reasons for recall, which was filed by the officer whose recall is sought, with the clerk, or in the

case of a state officer, with the Secretary of State, if any answer was filed.

The printed copies of the statement and the answer to that statement shall be mailed with the sample ballot either in a document separate from the sample ballot or in the same document in which the sample ballot appears, provided, however, that both the statement and answer shall be printed on the same page or on facing pages of the document and shall be of equal prominence.

If the recall of more than one officer is sought, the statement and answer for each officer shall be printed together and shall be clearly distinguished from those of any other officer.

Article 3. Elections in General

27320. A recall election shall be conducted, canvassed, and the results declared in substantially the manner provided by law for a regular election for such office.

27321. One election is sufficient for the recall of several officers.

27322. A city or county may provide for the reimbursement of recall election expenses legally and personally incurred by the officer sought to be recalled in the event his recall is not successful.

Article 4. Recall Elections Other Than State Recall Elections

27330. This article shall apply only to the recall of public officers other than state officers.

27331. If one-half or more of the votes at a recall election are "No", the officer sought to be recalled shall continue in office.

27332. If a majority of the votes on a recall proposal are "Yes" the recall has succeeded and the officer shall be removed upon the selection and qualification of his successor.

27333. If the recall prevails and a majority of those voting on the question of filling the vacancy favor a special election for that purpose, the legislative body shall at its next regular meeting call an election to be held to fill the vacancy not less than 74 nor more than 89 days after the date of the order. If a regular municipal election is to occur not more than 104 nor less than 74 days from the date of canvassing the vote the legislative body may provide for filling the vacancy at such regular municipal election instead of at a special election. If a special election is not favored by a majority of the voters, the legislative body shall at once fill the vacancy by appointment. In either case the person elected or appointed shall hold office for the unexpired term of the former incumbent.

27334. If a majority of the legislative body is recalled at the same election, the clerk shall, immediately after the canvass of votes, call a special election to fill the vacancies arising as a result of the recall election, which special election shall be held within 89 days after the canvass of votes of the election at which they were recalled. The duties of the governing body of the city with respect to the holding

of such special election shall be performed by the clerk. The vote of the special election shall be canvassed by the clerk, who shall declare the result. If the clerk has also been recalled, then the board of supervisors shall perform his duties.

Article 5. State Recall Elections

27340. This article shall apply only to the recall of state officers.

27341. Nominations of candidates to succeed the recalled officer shall be made in the manner prescribed for nominating a candidate to that office in a regular election insofar as that procedure is consistent with this article. The following exceptions shall be made to that procedure:

(1) The nomination papers and the declaration of candidacy shall, in each case, be filed no less than 59 days prior to the date of the election and not before the day the order of the election is issued.

(2) If the clerk is required to certify to the governing board the names of the candidates to be placed on the ballot, such shall be done by the 54th day prior to the election.

(3) No person whose recall is being sought may be a candidate to succeed himself at a recall election.

27342. No vote cast in the recall election shall be counted for any candidate unless the voter also voted for or against the recall of the officer sought to be recalled.

27343. If one-half or more of the votes at a recall election are "No", the officer sought to be recalled shall continue in office.

27344. If a majority of the votes on a recall proposal are "Yes" the officer sought to be recalled shall be removed from office upon the qualification of his successor.

27345. If at a recall election an officer is recalled, the candidate receiving the highest number of votes for the office shall be declared elected for the unexpired term of the recalled officer.

27346. If the candidate who received the highest number of votes fails to qualify within 10 days after receiving his certificate of election, the office to which he was elected shall be vacant, and shall be filled according to law.

SEC. 5. Section 34884 of the Government Code is repealed.

SEC. 6. Section 61452 of the Government Code is repealed.

SEC. 7. Section 6057 of the Harbors and Navigation Code is repealed.

SEC. 8. Section 7122 of the Harbors and Navigation Code is repealed.

SEC. 9. Section 6489.5 of the Health and Safety Code is repealed.

SEC. 10. Section 13846 of the Health and Safety Code is repealed.

SEC. 11. Section 32100.6 of the Health and Safety Code is repealed.

SEC. 12. Section 5592 of the Public Resources Code is repealed.

SEC. 13. Section 5782.20 of the Public Resources Code is repealed.

SEC. 14. Section 11864 of the Public Utilities Code is repealed.

SEC. 15. Section 16004 of the Public Utilities Code is repealed.

SEC. 16. Section 22406.5 of the Public Utilities Code is repealed.

SEC. 17. Section 30832 of the Water Code is repealed.

SEC. 18. Chapter 5 (commencing with Section 41700) of Part 4 of Division 14 of the Water Code is repealed.

SEC. 19. Section 70127 of the Water Code is repealed.

SEC. 20. Section 71532 of the Water Code is repealed.

SEC. 21. It is the intent of the Legislature that if both this bill and Assembly Bill No. 62 of the 1975–76 Regular Session are chaptered, that the provisions of both bills be given effect and incorporated in Chapter 4 (commencing with Section 27300) of Division 14 of the Elections Code as added by Section 4.5 of this bill. Therefore, if Assembly Bill No. 62 of the 1975–76 Regular Session is also chaptered, Chapter 4 (commencing with Section 27300) as added to Division 14 of the Elections Code by Section 4 of this bill is repealed, and Chapter 4 (commencing with Section 27300) as added to Division 14 of the Elections Code by Section 4.5 of this bill shall become operative. In the event Assembly Bill No. 62 of the 1975–76 Regular Session is not chaptered, Section 4.5 of this bill shall not become operative.

SEC. 22. It is the intent of the Legislature, if this bill and Assembly Bill No. 3318 are both chaptered and become effective January 1, 1977, both bills amend Section 3517 of the Elections Code, and this bill is chaptered after Assembly Bill No. 3318, that the amendments to Section 3517 proposed by both bills be given effect and incorporated in Section 3517 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 3318 are both chaptered and become effective January 1, 1977, both amend Section 3517, and this bill is chaptered after Assembly Bill No. 3318, in which case Section 1.4 of this act shall not become operative.

CHAPTER 1438

An act to repeal Article 2 (commencing with Section 31351) of Chapter 5 of Division 22 of the Education Code, and to amend Sections 312, 500, 1103, 1203, 1204, 1208, 1400, 1409.5, 1411, 3579, 3714, 3788, 6170, 6271, 6581, 6619, 6804, 8710.5, 8872, 8920.5, 9372, 9722, 9772, 9780, 9781, 9784, 9785, 10007, 10205, 10235, 10331, 11704, 14005, 14204, 14216, 14224, 14226, 14242, 14305, 15025, 15200, 15205, 15240, 15241, 15261, 15263, 15271, 15272, 15280, 15283, 17110, 20021, 20084, 20300, 20330, 20375, 22030, 22032, 22603, 22832, 22932.5, 22934, 23512.4, 23531, 23557, 23559, 29412, and 29501 of, to repeal Sections 5200, 5200.1, and 5351 of, to amend and renumber Sections 317 and 387.1 of, to add Article 2 (commencing with Section 5200) to Chapter 4 of Division 4 of, to repeal Article 2 (commencing with Section 5200) of Chapter 4 of Division 4 of, and to amend and renumber the headings of

Division 1.5 (commencing with Section 1000) of, Division 2 (commencing with Section 1500) of, Division 3 (commencing with Section 2500) of, Division 4 (commencing with Section 3500) of, Division 5 (commencing with Section 6000) of, Division 6 (commencing with Section 8000) of, Division 7 (commencing with Section 10000) of, Division 8 (commencing with Section 11500) of, Division 9 (commencing with Section 14000) of, Chapter 3.5 (commencing with Section 14400) of Division 9 of, Division 9.5 (commencing with Section 15000) of, Division 10 (commencing with Section 17000) of, Division 11 (commencing with Section 20000) of, Division 12 (commencing with Section 22000) of, Division 13 (commencing with Section 25000) of, Division 14 (commencing with Section 27000) of, Division 15 (commencing with Section 29100) of, and Division 16 (commencing with Section 30000) of, the Elections Code, and to amend Section 416.80 of the Code of Civil Procedure, relating to elections.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Article 2 (commencing with Section 31351) of Chapter 5 of Division 22 of the Education Code is repealed.

SEC. 1.2. Section 312 of the Elections Code, as proposed to be added to the Elections Code by Section 13 of Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended to read:

312. Except as provided in Section 315, if a voter reregisters or transfers his or her registration from one precinct to another, the former address shall be entered in the prior registration portion of the affidavit, and the former registration shall thereupon be canceled.

SEC. 1.3. Section 317 of the Elections Code, as proposed to be added by Senate Bill No. 1654 of the 1975–76 Regular Session of the Legislature, is amended and renumbered to read:

706.2. Within 60 days of the direct primary election, voter lists reflecting the cancellation of voters at the direct primary shall be made available to candidates at that election.

SEC. 1.4. Section 387.1 of the Elections Code, as proposed to be added by Senate Bill No. 1654 of the 1975–76 Regular Session of the Legislature, is amended and renumbered to read:

706.1. Within 60 days of the day of the direct primary or statewide general election, the clerk shall cancel the original and duplicate affidavits of registration for each voter who failed to vote at the previous direct primary or previous statewide general election, whichever is later, and who is registered to vote pursuant to the provisions contained in Chapter 4 (commencing with Section 1300) of Division 2.

Within 15 days after the day of the direct primary or statewide

general election, the clerk shall mail to each voter affected by this section a notice notifying the voter that the voter's affidavit of registration shall be canceled unless the clerk is notified by the voter within 45 days after mailing of such notice that the voter intends to remain registered and desires to use the old or another overseas address. Such notice shall be mailed to the voter's overseas address at it appears in his or her affidavit of registration.

The notice sent by the clerk to the voter shall be a double postcard and the return notice to the clerk shall be prepaid. The notice shall be uniform in all counties, according to regulations promulgated by the Secretary of State.

SEC. 1.5. Section 500 of the Elections Code, as proposed to be added by Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended to read:

500. 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. 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. 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 the 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. 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 give 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. 2. The heading of Division 1.5 (commencing with Section 1000), as proposed to be added to the Elections Code by Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended and renumbered to read:

DIVISION 2. ABSENTEE VOTING AND NEW RESIDENT VOTING

SEC. 2.1. Section 1103 of the Elections Code, as proposed to be added by Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended to read:

1103. The envelope into which a new resident is to place the ballot shall bear upon its face the name and official title of the county elections official and upon the other side a printed affidavit in substantially the following form:

State of California }
County of _____ } ss.

I, _____, do solemnly swear or affirm that I am a citizen of the United States, that on the day of the next election for federal offices shall be at least 18 years of age, a resident of this state prior to that election, and am a resident of the City or Town of _____, County of _____, State of California; I have not applied, nor do I intend to apply, for an absent voter's ballot from the state from which I have removed.

_____ _____
(Date of signing) (Signature)

_____
(Residence address)

SEC. 2.2. Section 1203 of the Elections Code, as proposed to be added by Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended to read:

1203. When an affidavit of registration is found to be insufficient both the affidavit and the voted ballot are to be rejected. The word "rejected" and the date shall be written across the face of the affidavit and across the front of the ballot envelope. The words "not registered" shall also be written across the identification envelope.

If it appears the applicant is entitled to register and vote in some other city or county, the elections official shall immediately transmit the affidavit and the ballot to the proper city or county. The affidavit and ballot shall then be processed in accordance with this chapter.

SEC. 2.3. Section 1204 of the Elections Code, as proposed to be added by Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended to read:

1204. When the affidavit is received by an elections official, other than a county clerk, the elections official receiving it shall, after the election, transmit it to the county clerk who, if the affidavit is not subject to rejection, shall file the original. If an affidavit of registration is rejected, it shall be returned to the applicant with the reason for rejection endorsed on it, together with a new blank affidavit card.

SEC. 2.4. Section 1208 of the Elections Code, as proposed to be added by Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended to read:

1208. If by any act of Congress which is now or may become effective during the effective period of this section, provision is made for voting by special absent voter, that act shall control and be superior to any conflicting provisions of this code, and all state, county, municipal and district officers, who are charged with the performance of duties with reference to the election laws of this state, shall perform the duties and discharge the obligations placed upon them by that act of Congress. It is the purpose and intent of this section that full effect shall be given to ballots cast by special absentee voters under federal statutes in order that no person shall be deprived of his vote by virtue of having cast his ballot under any federal statute rather than under the laws of this state.

SEC. 2.5. Section 1400 of the Elections Code, as proposed to be added by Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended to read:

1400. Any county having the necessary computer capability may start to process absent voter ballots on the fifth day prior to the election. This process may be completed to the point of putting the information on computer tape, but under no circumstances, is a vote count to be made until 9 p.m. on the day of the election. All other elections officials shall start to process absent voter ballots at 5 p.m. on the day before the election.

Results of any absent voter tabulation or count are not to be released prior to the close of the polls on the day of the election.

SEC. 2.6. Section 1409.5, as proposed to be added to the Elections Code by Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended to read:

1409.5. Reports to the Secretary of State of the findings of the canvass of absent voter ballots shall be made by the clerk pursuant to Chapter 7 (commencing with Section 17070) and Chapter 8 (commencing with Section 17080) of Division 12.

SEC. 2.7. Section 1411, as proposed to be added to the Elections Code by Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended to read:

1411. When elections are consolidated pursuant to the provisions of Division 14 (commencing with Section 22000), and only one form

of ballot is used at the consolidated election, the ballots cast by absent voters shall be counted only in connection with elections to which absent voter privileges have been extended by law.

Whenever the period of time within which absent voters' ballots must be received by the clerk in order to be counted, as for any election by this code or any other law of this state, is different from that period of time provided for another election, and the elections are consolidated and only one form of ballot used for both elections, all absent voters' ballots issued for the consolidated election may be counted for both elections if received by the clerk within whichever period of time that is the longer.

SEC. 3. The heading of Division 2 (commencing with Section 1500) of the Elections Code is amended and renumbered to read:

DIVISION 3. PRECINCTS AND PRECINCT BOARDS

SEC. 4. The heading of Division 3 (commencing with Section 2500), as proposed to be added to the Elections Code by Assembly Bill No. 3684 of the 1975–76 Regular Session of the Legislature, is amended and renumbered to read:

DIVISION 4. ELECTION DATES

SEC. 5. The heading of Division 4 (commencing with Section 3500) of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended and renumbered to read:

DIVISION 5. MEASURES SUBMITTED TO THE VOTERS

SEC. 6. Section 3579 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended to read:

3579. As soon as copies of the ballot pamphlet are available, the Secretary of State shall immediately mail the following number of copies to the listed persons and places:

(a) Five copies to each county clerk or registrar of voters;

(b) Six copies to each city clerk;

(c) Five copies to each Member of the Legislature; and

(d) Five copies to the proponents of each ballot measure.

The Secretary of State shall also mail:

(a) Two copies to each public library and branch thereof.

(b) Twelve copies to each public high school or other public school teaching at least the 11th and 12th grades, and 25 copies to each public institution of higher learning.

Upon request, and in the discretion of the Secretary of State, additional copies may be furnished to these persons and institutions.

SEC. 6.4. Section 3714 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended to read:

3714. The persons filing an initiative petition pursuant to this article may file with the petition a written argument in favor of the

ordinance. The board of supervisors may submit an argument against the ordinance. Neither argument shall exceed 300 words in length.

The county clerk shall cause an argument for the measure, if submitted, and an argument against the measure, if submitted, to be printed and shall enclose a copy of both arguments, printed on the same sheet of paper, in an envelope with each sample ballot. Such printed arguments are "official matter" within the meaning of those words used in Section 10010.

The following statement shall be printed on the front cover or, if none, on the heading of the first page of the printed arguments:

"Arguments in support of or in opposition to the proposed laws are the opinions of the authors."

SEC. 6.5. Section 3788 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended to read:

3788. Notwithstanding any provision of law to the contrary, all of the provisions of this article shall apply to any district bond election called by, and the returns of which are canvassed by, the board of supervisors, or to any district bond election conducted by a district. The provisions of this article shall also apply to any special election, if the board of supervisors so provides in its proclamation or notice thereof.

At any election subject to the provisions of this section:

(a) "County measure" shall be deemed to refer to any measure as defined in Section 38. Section 3780 shall not apply.

(b) Section 3781, and the reference to the analysis of the measure in Section 3783, shall not apply unless the board of supervisors directs such officer to prepare the analysis.

This article shall not apply to any school district bond election.

SEC. 6.6. Article 2 (commencing with Section 5200) of Chapter 4 of Division 4 of the Elections Code, as proposed to be added by Assembly Bill No. 3467 of the 1975–76 Regular Session of the Legislature, is repealed.

SEC. 6.7. Article 2 (commencing with Section 5200) is added to Chapter 4 of Division 4 of the Elections Code, to read:

Article 2. Referendum

5200. The voters of any district, which is a local public entity as defined by Section 900.4 of the Government Code, and to which Section 5150 of this code applies, shall have the right to petition for referendum on legislative acts of such district in the same manner and subject to the same rules as are set forth in Sections 3751, 3751.7, 3752, 3753, 3754 and 3755, except that all computations referred to in those sections and officers of the county mentioned in those sections shall be construed to refer to comparable computations and officers of the district.

5200.1. (a) Notwithstanding the provisions of Section 5200, ordinances authorizing the issuance of revenue bonds by a school district, special district, or any other local agency as part of a joint

powers entity pursuant to Section 6547 of the Government Code shall not take effect for 60 days.

(b) When the number of votes cast for all candidates for Governor at the last gubernatorial election within the boundaries of the school district, special district, or any other local agency described in subdivision (a) exceeds 500,000, such ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 5 percent of the entire vote cast within the boundaries of the school district, special district, or any other local agency for all candidates for Governor at the last gubernatorial election. When the number of votes cast for all candidates for Governor at the last gubernatorial election within the boundaries of the school district, special district, or any other local agency is less than 500,000, such ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 10 percent of the entire vote cast within the boundaries of the school district, special district, or any other local agency for all candidates for Governor at the last gubernatorial election.

(c) For the purpose of submitting the question to the voters pursuant to subdivision (b), the ballot wording shall approximate the following: "Shall the _____
(school district, special district, or any other local agency
_____, as a member of the _____, authorize the
name) (joint powers entity name)
issuance of revenue bonds by the joint powers entity in the amount of $_____ pursuant to ordinance number _____, dated _____, such bonds to be used for the following purposes and to be redeemed in the following manner:_____?"

5201. The governing board of any district to which Section 5200 applies may refer legislative questions to the voters of the district in the same manner as the board of supervisors may refer county questions pursuant to Section 3750.

5202. The clerk shall preserve the petition in the manner prescribed by Section 3756.

SEC. 6.8. Section 5200 of the Elections Code, as proposed to be amended by Senate Bill No. 1392 of the 1975–76 Regular Session of the Legislature, is repealed.

SEC. 6.9. Section 5200.1 of the Elections Code, as proposed to be added by Senate Bill No. 1392 of the 1975–76 Regular Session of the Legislature, is repealed.

SEC. 7. Section 5351 of the Elections Code, as added by Chapter 226 of the Statutes of 1976, is repealed.

SEC. 8. The heading of Division 5 (commencing with Section 6000) of the Elections Code is amended and renumbered to read:

DIVISION 6. NOMINATIONS

SEC. 8.4. Section 6170 of the Elections Code, as proposed to be amended by Assembly Bill No. 3612 of the 1975–76 Regular Session

of the Legislature, is further amended to read:

6170. For the presidential primary election, the format of the American Independent Party ballot shall be governed by the provisions of Chapter 2 (commencing with Section 10200) of Division 8, with the following exceptions:

(a) In place of the heading "Delegates to National Convention, vote for one group only" shall appear the heading "Presidential Preference, vote for one".

(b) Selected and unselected presidential candidates shall be listed below the heading specified in subdivision (a).

(c) Below the presidential candidates shall appear in the same column, or in the next column if there is not sufficient space in the first column, the heading "Delegates to National Convention, vote for one group."

(d) The instructions to voters shall be the same as provided for in Chapter 2 (commencing with Section 10200) of Division 8 except that they shall begin with the words, "To express your preference for a candidate for nomination for President, stamp a cross (+) in the square opposite the name of the candidate. Your vote in this portion of the ballot is advisory only. Delegates to the national convention will be elected in the delegate selection portion of the ballot."

SEC. 8.7. Section 6271 of the Elections Code, as proposed to be amended by Assembly Bill No. 3612 of the 1975–76 Regular Session of the Legislature, is further amended to read:

6271. For the presidential primary election, the format of the Peace and Freedom Party ballot shall be governed by the provisions of Chapter 2 (commencing with Section 10200) of Division 8 of this code, with the following exceptions:

(a) In place of the heading "Delegates to National Convention, vote for one group only" shall appear the heading "Presidential Preference, vote for one."

(b) Selected and unselected presidential candidates shall be listed below the heading specified in subdivision (a).

(c) Below the presidential candidates shall appear in the same column, or in the next column if there is not sufficient space in the first column, the heading "Delegates to National Convention, vote for one group".

(d) Presidential candidates who have qualified for the ballot and to whom delegations are pledged, and the chairpersons of unpledged delegations which have qualified for the ballot, shall be listed below the heading specified in subdivision (c).

(e) The instructions to voters shall be the same as provided for in Chapter 2 of Division 8 of this code except that they shall begin with the words, "To express your preference for a candidate for nomination for President, stamp a cross (+) in the square opposite the name of the candidate. Your vote in this portion of the ballot is advisory only. Delegates to the national convention will be elected in the delegate selection portion of the ballot "

SEC. 8.9. Section 6581, as proposed to be added to the Elections

Code by Assembly Bill No. 3612 of the 1975–76 Regular Session of the Legislature, is amended to read:

6581. The Secretary of State shall certify and transmit the list of candidates for nomination to each office according to Assembly districts, in the order of arrangement prescribed in Chapter 2 (commencing with Section 10200) of Division 8. In the case of each county containing more than one Assembly district, the Secretary of State shall transmit separate lists for each Assembly district.

SEC. 8.11. Section 6619, as proposed to be added to the Elections Code by Assembly Bill No. 3612 of the 1975–76 Regular Session of the Legislature, is amended to read:

6619. The Secretary of State shall certify and transmit the list of candidates for each office according to Assembly districts, in the order of arrangement prescribed by Chapter 2 (commencing with Section 10200) of Division 8. In the case of each county containing more than one Assembly district, he shall transmit separate lists for each Assembly district.

SEC. 8.13. Section 6804, as proposed to be added to the Elections Code by Assembly Bill No. 3612 of the 1975–76 Regular Session of the Legislature, is amended to read:

6804. When a group of candidates for presidential electors designates the presidential and vice presidential candidates for whom all of the group pledge themselves to vote, the names of the presidential candidate and vice presidential candidate designated by that group shall be printed on the ballot pursuant to Chapter 2 (commencing with Section 10200) of Division 8.

SEC. 9. The heading of Division 6 (commencing with Section 8000) of the Elections Code is amended and renumbered to read:

DIVISION 7. POLITICAL PARTIES

SEC. 9.4. Section 8710.5 of the Elections Code is amended to read:

8710.5. Notwithstanding any provision of law to the contrary, the state central committee meeting of a political party subject to Part 4 (commencing with Section 9600) of Division 7 of this code shall convene at Sacramento at 10 o'clock a.m. of the day following the state convention of such party.

SEC. 9.6. Section 8872 of the Elections Code is amended to read:

8872. In each county the name of each candidate for member of a committee shall appear upon the ballot only upon the filing of a nomination paper pursuant to Articles 4 (commencing with Section 6490) and 5 (commencing with Section 6550) of Chapter 2 of Division 6 of this code, signed in his behalf by the voters of the Assembly or supervisorial district in which he is a candidate.

SEC. 9.8. Section 8920.5 of the Elections Code is amended to read:

8920.5. Notwithstanding any provision of law to the contrary, the county central committees of a political party subject to Part 4

(commencing with Section 9600) of Division 7 of this code shall meet on the second Tuesday in July following the direct primary election, except that in any year in which a national convention of such party includes that date, the existing executive committee of a committee of that party shall set the date of the meeting, not to exceed 30 days after the date herein specified.

SEC. 9.10. Section 9372 of the Elections Code is amended to read:

9372. In each county the name of each candidate for member of a committee shall appear upon the ballot only upon the filing of a nomination paper pursuant to Articles 4 (commencing with Section 6490) and 5 (commencing with Section 6550) of Chapter 2 of Division 6 of this code, signed in his behalf by the voters of the Assembly or supervisorial district in which he is a candidate.

SEC. 9.12. Section 9722 of the Elections Code is amended to read:

9722. In each county the name of each candidate for member of a committee shall appear upon the ballot only upon the filing of a nomination paper pursuant to Article 4 (commencing with Section 6490) and Article 5 (commencing with Section 6550) of Chapter 2 of Division 6 of this code, signed in his behalf by the voters of the Assembly or supervisor district in which he is a candidate.

SEC. 9.14. Section 9772 of the Elections Code is amended to read:

9772. In each county, the name of each candidate for member of central committees shall appear on the ballot only if she or he has:

(a) Filed a nomination paper pursuant to Division 6 (commencing with Section 6000) of this code, signed in the candidate's behalf by the voters of the central committee election district in which she or he is a candidate; or

(b) Has qualified to have her or his name printed on the direct primary ballot as a candidate for the Peace and Freedom Party nomination to a partisan public office.

SEC. 9.16. Section 9780 of the Elections Code is amended to read:

9780. The order of appearance of the names of the candidates for member of central committees on the ballot shall be determined by a public drawing held at the time, place and manner prescribed for determining the order of names of county central committee members pursuant to Chapter 2 (commencing with Section 10200) of Division 8 of this code.

SEC. 9.17. Section 9781 of the Elections Code is amended to read:

9781. The office of member of central committees shall be placed on the direct primary ballot under the heading "Party Central Committees" in the place and manner designated for the office of county central committee pursuant to Chapter 2 (commencing with Section 10200) of Division 8 of this code. The subheading printed under party central committees on the direct primary ballot shall be

in substantially the following form:

Member of Peace and Freedom Party
Central Committees, 55th Assembly District
or
Member of Peace and Freedom Party
Central Committees, Alpine County

SEC. 9.18. Section 9784 of the Elections Code is amended to read:

9784. A certificate of election shall be issued to each elected member of central committees by the officers charged with that duty of issuing certificates of election to members of county central committees under Section 6615.

SEC. 9.19. Section 9785 of the Elections Code is amended to read:

9785. The votes cast for each candidate for member of central committees shall be included in the canvass and statement of results in a manner similar to the vote for each candidate for county central committee pursuant to Division 12 (commencing with Section 17000) of this code.

SEC. 10. The heading of Division 7 (commencing with Section 10000) of the Elections Code is amended and renumbered to read:

DIVISION 8. BALLOTS

SEC. 10.2. Section 10007 of the Elections Code is amended 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 10200) of Division 8 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 five 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. 10.6. Section 10205 of the Elections Code, as proposed to be added by Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature, is amended to read:

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."

If a group of candidates for electors has been nominated under the provisions of Chapter 3 (commencing with Section 6800) of Division 6, 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."

SEC. 10.8. Section 10235 of the Elections Code, as added by Chapter 248 of the Statutes of 1976, is amended to read:

10235. The ballots used when voting upon a proposed county, city, or district ordinance submitted to the voters of the respective local government as an initiative measure pursuant to Division 5 (commencing with Section 3500) shall have printed on them the words "Shall the ordinance (stating the nature thereof) be adopted?" Opposite the statement of the ordinance to be voted on, and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his vote shall be

counted in favor of the adoption of the ordinance. If he stamps a cross (+) in the voting square after the printed word "No," his vote shall be counted against its adoption.

SEC. 10.10. Section 10331 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

10331. As used in this article, "ballot card" means a card or a number of cards upon which are printed, or identified by reference to the ballot, the names of candidates for nomination or election to one or more offices or the ballot titles of one or more measures. The ballot card shall also contain proper blank spaces to allow the voter to write in names not printed on the ballot unless a separate write-in ballot is used. The separate write-in ballot may be a paper ballot, a card, or the envelope used to enclose a ballot card. Determination of the format of a separate write-in ballot shall be within the discretion of the elections board. The separate write-in ballot shall provide a blank space followed by the word "office" and a second blank space followed by the word "name" for purposes of facilitating write-in votes for offices for which write-in votes may be cast, or may provide a space for writing in the name followed by a space for punching or slotting in order that the vote may be tabulated. All such separate write-in ballots may, in the discretion of the elections board, have attached thereto two stubs which comply with the provisions of Section 10334 regarding the stubs attached to a ballot card, except that the information required under subdivisions (c) through (g) of Section 10334 and instructions to voters on how to vote for persons whose names do not appear on the ballot may be printed on the write-in ballot and not upon a stub. Any serial numbers appearing on the write-in ballot stubs need not be identical to the serial numbers appearing on the stubs attached to the ballot card or cards handed to the voter. Sections 10001 through 10004 shall not apply to the preparation and composition of separate write-in ballots authorized by this section. Sections 14303 and 14306 of this code shall not apply to separate write-in ballots used in an election in which a punchcard voting system is used.

SEC. 11. The heading of Division 8 (commencing with Section 11500) of the Elections Code is amended and renumbered to read:

DIVISION 9. ELECTION CAMPAIGNS

SEC. 12. Section 11704 of the Elections Code, as amended by Chapter 224 of the Statutes of 1976, is further amended to read:

11704. Notwithstanding any provision of Section 11703, in the case of any postcard published and circulated by or in behalf of any committee or organization using as a part of its name the name of qualified political party or derivative thereof, which postcard is not folded and consists of only two surfaces, on one or both of which surfaces appear a statement or words as described in Section 11703 with reference to a candidate or group of candidates in the direct primary election, the requirements of Section 11703 shall be satisfied

if there is printed on both surfaces thereof the words "published by", followed by the name of the committee or organization printed in not less than 10-point boldface type, followed by the words ", an unofficial political group" printed in not less than 10-point boldface type, provided that this section shall not apply to any matter which bears the word "official" followed by the name of the party or derivative thereof, or the words "officially endorsed", or to any matter which violates the provisions of Section 11702 or 29430.

SEC. 13. The heading of Division 9 (commencing with Section 14000) of the Elections Code is amended and renumbered to read:

DIVISION 10. CONDUCT OF ELECTIONS

SEC. 14. Section 14005 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

14005. The clerk shall furnish to the precinct officers:

(a) Printed copies of the indexes.

(b) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations and returns.

(c) Envelopes in which to enclose returns.

(d) Not less than six nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14231, 14232, 14241, 14244, 14248, 14249, 17001, 17004, 17005, 17009, 17010, 17011, 29001, 29103, 29108, and 29138.

(e) A digest of the election laws with any further instructions the county clerk may desire to make.

(f) An American Flag of sufficient size to adequately assist the voter in identifying the polling place. The flag is to be erected at or near the polling place on election day.

(g) A ballot container, properly marked on the outside indicating its contents.

(h) When it is necessary to supply additional ballot containers, these additional containers shall also be marked on the outside, indicating their contents.

(i) Sufficient ink pads and stamps for each booth. The stamps shall be one solid piece and shall be made so that a cross (+) may be made with either end. If ballots are to be counted by vote tabulating equipment, an adequate supply of other approved voting devices shall be furnished. All voting stamps or voting devices shall be maintained in good usable condition.

(j) When a candidate or candidates have qualified to have his or their names counted pursuant to Chapter 9 (commencing with Section 17100) of Division 10, a sufficient number of ink pens or pencils in the voting booths for the purpose of writing in on the ballot the name of such candidate or candidates.

(k) A sufficient number of cards to each polling place containing the telephone number of the office to which a voter may call to obtain information about his or her precinct location. The card shall

state that the voter may call collect during polling hours.

(*l*) An identifying badge or insignia for each member of the precinct board. The member shall print his or her name and the precinct number thereon and shall wear the badge or insignia at all times in the performance of duties, so as to be readily identified as a member of the precinct board by all persons entering the polling place.

(m) Facsimile copies of the ballot containing ballot measures and ballot instructions printed in Spanish or other languages as provided in Section 14203.

(n) Sufficient copies of the notices to be posted on the indexes used at the polls. The notice shall read as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14251 of the Elections Code. Any person who removes, tears, marks or otherwise defaces this index with the intent to falsify or prevent others from readily ascertaining the name, address or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor."

(o) A roster of voters for each precinct in the form prescribed in Section 14005.5.

(p) In addition, the clerk may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures to the precinct officers.

SEC. 14.3. Section 14204 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

14204. Before opening the polls the precinct board shall post in separate, convenient places at or near the polling place and of easy access to the voters not less than two of the copies of the index to the affidavits of registration for that precinct.

In any county in which tabulating equipment is used to produce the index of registration, the copies of the index posted pursuant to this section shall be by street addresses in numerical order, unless otherwise provided by Section 612.

SEC. 14.4. Section 14216 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

14216. A person offering to vote may be orally challenged within the polling place only by a member of the precinct board upon any or all of the following grounds:

(a) That the voter is not the person whose name appears on the index.

(b) That the voter is not a resident of the precinct.

(c) That the voter is not a citizen of the United States.

(d) That the voter has voted that day.

(e) That the voter is presently on parole for the conviction of a felony, which, pursuant to Section 101, disqualifies the voter from voting.

On the day of the election no person, other than a member of a precinct board or other official responsible for the conduct of the election, shall challenge or question any voter concerning the voter's

qualifications to vote.

If any member of a precinct board receives, by mail or otherwise, any document or list concerning the residence or other voting qualifications of any person or persons, with the express or implied suggestion, request, or demand that such person or persons be challenged, the board member shall first determine whether the document or list contains or is accompanied by evidence constituting probable cause to justify or substantiate a challenge. In any case, before making any use whatever of such a list or document, the member of the precinct board shall immediately contact the clerk, charged with the duty of conducting the election, and describe the contents of such document or list and such evidence, if any, received bearing on voting qualifications. The clerk shall advise the members of the precinct board as to the sufficiency of probable cause for instituting and substantiating the challenge and as to the law as herein provided, relating to hearings and procedures for challenges by members of the precinct board and determination thereof by a precinct board. The clerk may, if necessary, designate a deputy to receive and answer inquiries from precinct board members as herein provided.

SEC. 14.6. Section 14224 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

14224. Before administering an oath to a person regarding his or her place of residence, a member of the precinct board shall read to the person challenged, the rules prescribed by Section 14225 and Article 2 (commencing with Section 200) of Chapter 1 of Division 1.

SEC. 14.7. Section 14226 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

14226. The precinct board in determining the place of residence of any person, shall be governed by the rules set forth in Article 2 (commencing with Section 200) of Chapter 1 of Division 1.

SEC. 15. Section 14242 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

14242. If a voter spoils or defaces a ballot, the voter shall at once return it to the ballot clerk and receive another ballot. A voter shall not receive more than a total of three ballots, including his original ballot, in this manner.

SEC. 15.1. Section 14305 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended to read:

14305. The members of the precinct board shall account for the ballots delivered to them by returning a sufficient number of unused ballots to make up, when added to the number of official ballots cast and the number of spoiled ballots returned, the number of ballots given to them. The officers receiving returned ballots shall compel such an accounting.

The precinct board shall complete the roster as required in Section 14005.5, and shall also complete and sign the certificate of performance prescribed in Section 17013, if that section applies.

SEC. 16. The heading of Chapter 3.5 (commencing with Section

14400) of Division 9 of the Elections Code, as added by Chapter 220 of the Statutes of 1976, is amended and renumbered to read:

CHAPTER 4. REGULATIONS AT THE POLLS

SEC. 17. The heading of Division 9.5 (commencing with Section 15000) of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended and renumbered to read:

DIVISION 11. VOTING SYSTEMS

SEC. 17.1. Section 15025 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15025. In the case of electrical failure or other emergency, the official conducting the election may direct that ballots may be marked by pencil or ink. In such event, counting shall be conducted as provided in Chapter 1 (commencing with Section 17000) of Division 12

SEC. 17.2. Section 15200 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15200. This chapter shall govern all elections except those totally using paper ballots counted by hand. Voting machines are governed by this chapter only where the provisions of this chapter are not inconsistent with Chapter 4 (commencing with Section 15300) of this division.

SEC. 17.3. Section 15205 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15205. In any municipal, special district, or school district election at which an electronic, electromechanical, or punchcard voting system is to be used for counting the ballots, the officer in charge of the election may provide that the precinct board shall consist of one inspector and two or more judges who shall be appointed pursuant to the provisions of Division 10 (commencing with Section 14000). This section shall not apply to any local election consolidated with a statewide direct primary or general election.

SEC. 17.4. Section 15240 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15240. Any ballot that is torn, bent, or mutilated shall be segregated in the manner directed by the elections official and shall be placed within the same sealed container as provided for other voted ballots in Section 15243 and shall be delivered with the voted ballots to the counting place, where a duplicate shall be prepared as provided in Section 15270. Any ballot that is marked in a manner so as to identify the voter shall be marked "Void" and shall be placed in the container for void ballots.

SEC. 17.5. Section 15241 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15241. As soon as the polls are closed, the precinct board shall remove the voted ballots from the ballot container, and take them

03846 297230 211

out of the envelopes. Where such envelope is also the write-in ballot and a write-in vote has been registered thereon, the ballot card shall not be separated from the envelope until the validity of the write-in vote has been checked and the used envelope and its related ballot card have been cross-identified pursuant to Section 15242 and if two or more separate ballot cards have been used in the election, sort them into groups each of which shall contain the same series of ballot cards. The precinct board shall next count the number of ballot cards in each group, and certify the number of votes cast on the voting roster as provided by Section 14005. If there is any discrepancy between the number of voters listed in the roster and the number of ballots voted, this fact shall be noted with an explanation of the difference and signed by all the members of the precinct board.

SEC. 17.6. Section 15261 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15261. In the event that paper ballots are used in conjunction with this system, counting shall be as provided in Division 12 (commencing with Section 17000).

SEC. 17.7. Section 15263 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15263. The ballots may be counted at the polls if a counting or tabulating machine approved therefor pursuant to this division is available at the polls. In case of an emergency in which it becomes impossible to transport the ballots from the precinct to a central counting place, the election official may direct that such ballots be counted at the precinct. In such cases, counting shall be conducted substantially in accordance with the provisions of Chapter 1 (commencing with Section 17000) of Division 12.

SEC. 17.8. Section 15271 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15271. If paper ballots are used for absentee voting the canvass may be conducted in accordance with Chapter 5 (commencing with Section 1400) of Division 2, or the clerk may have a true duplicate copy of absentee voter paper ballots made on punchcard ballots which shall be verified in the presence of witnesses and after verification the punchcard ballots shall be counted in the same manner as other punchcard ballots.

SEC. 17.9. Section 15272 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15272. The clerk may count absent voter ballots by the use of a voting machine or vote tabulating device subject to the following:

a. All interested persons shall be afforded the opportunity to be present.

b. No vote shall be counted unless there are at least three persons observing the counting procedure.

c. The voting machine or device shall be inspected, all of its registering counters set at zero (000) and locked.

d. The clerk pursuant to the provisions of Section 15321 may appoint persons to assist in the counting of these ballots.

e. No vote shall be registered in the voting machine or device unless all persons present are in agreement that the voting machine or device reflects exactly the vote of the ballot being counted.

f. When the votes of all absent voter ballots have been registered in the voting machine or device, the results of the votes cast shall be tabulated in the same manner as the results from other voting machines or devices.

SEC. 17.10. Section 15280 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15280. On recount, ballots may be challenged pursuant to Section 17149.

SEC. 17.11. Section 15283 of the Elections Code, as added by Chapter 246 of the Statutes of 1976, is amended to read:

15283. Section 15208 shall apply unless a court orders the program held pending the conclusion of litigation challenging the outcome of an election. If court action or an official recount is initiated while the program is on deposit, the Secretary of State shall make the program available to the court or the elections official in whose jurisdiction the court action or recount takes place, upon written request.

SEC. 18. The heading of Division 10 (commencing with Section 17000) of the Elections Code is amended and renumbered to read:

DIVISION 12. CANVASS, DECLARATION OF RESULTS

SEC. 18.5. Section 17110 of the Elections Code is amended to read:

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 5 of Division 6.

SEC. 19. The heading of Division 11 (commencing with Section 20000) of the Elections Code is amended and renumbered to read:

DIVISION 13. ELECTION CONTESTS. TIE VOTE

SEC. 19.2. Section 20021 of the Elections Code is amended to read:

20021. Any elector of a county, city, or of any political subdivision of either may contest any election held therein, for any of the following causes:

(a) That the precinct board or any member thereof was guilty of malconduct.

(b) That the person who has been declared elected to an office

was not, at the time of the election, eligible to that office.

(c) That the defendant has given to any elector or member of a precinct board any bribe or reward, or has offered any bribe or reward for the purpose of procuring his election, or has committed any other offense against the elective franchise defined in Division 17 (commencing with Section 29100).

(d) That illegal votes were cast.

(e) That the precinct board in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election as to any person who has been declared elected.

(f) That there was an error in the vote-counting programs or summation of ballot counts.

SEC. 19.3. 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 12.

SEC. 19.4. Section 20300 of the Elections Code is amended to read:

20300. Any candidate at a primary election may contest the right of another candidate to nomination to the same office by filing an affidavit alleging any of the following grounds, that:

(a) The defendant is not eligible to the office in dispute.

(b) The defendant has committed any offense against the elective franchise defined in Division 17 (commencing with Section 29100).

(c) A sufficient number of votes were illegal, fraudulent, forged, or otherwise improper, and that had such votes not been counted, the defendant would not have received as many votes as the contestant.

(d) Due to mistake, error or misconduct the votes in any precinct were so incorrectly counted as to change the result.

SEC. 19.5. Section 20330 of the Elections Code is amended to read:

20330. This article applies only to contests on the grounds that:

(a) The defendant is not eligible to the office in dispute.

(b) The defendant has committed any offense against the elective franchise as defined in Division 17 (commencing with Section 29100).

(c) A sufficient number of votes were illegal, fraudulent, forged, or otherwise improper, and that had such votes not been counted the defendant would not have received as many votes as the contestant.

SEC. 19.6. Section 20375 of the Elections Code is amended to read:

20375. A certified copy of the judgment shall be served upon the county clerk and may be enforced summarily in the same manner as

provided in Section 10015.

SEC. 20. The heading of Division 12 (commencing with Section 22000) of the Elections Code is amended and renumbered to read:

DIVISION 14. SPECIAL AND LOCAL ELECTIONS

SEC. 20.2. Section 22030 of the Elections Code is amended to read:

22030. The election board conducting local, special, or consolidated elections, or statewide elections other than the direct primary, presidential primary, or general election, may, for the purpose of the election, divide the territory within which the election is to be held into special election or consolidated election precincts by consolidating existing precincts, or otherwise, subject to the provisions of Section 1513, and may change and alter the precincts for such elections as often as occasion requires. Not more than six existing precincts may be consolidated into one special election or consolidated election precinct. The polling place used for a consolidated precinct shall be located within the boundaries of the consolidated precinct.

SEC. 20.4. Section 22032 of the Elections Code is amended to read:

22032. With the exception of elections conducted statewide and special elections to fill legislative and congressional vacancies, any local, special or consolidated election may be conducted wholly by the use of absent voter ballots as provided in Section 1005, irrespective of the number of voters eligible to vote at such election.

The purpose of this provision is to provide for a method of voting which tends to achieve optimum participation by qualified voters at local, special and consolidated elections.

This section shall be applicable only to elections conducted by local entities which have no more than 300 registered voters residing therein.

SEC. 20.5. Section 22603 of the Elections Code is amended to read:

22603. The provisions of Section 57 and Chapter 9 (commencing with Section 17100) of Division 12, relating to write-in votes, shall apply to municipal elections held in general law cities.

SEC. 20.6. Section 22832 of the Elections Code is amended to read:

22832. Sample ballots and polling place cards shall be printed and mailed to each voter for any municipal election within the time provided by Section 10010.

SEC. 20.7. Section 22932.5 of the Elections Code is amended to read:

22932.5. The governing body may, by resolution duly adopted prior to the date of election, order the canvass to be made by the city clerk prior to the first Tuesday after the election Sections 17082 and 17083 shall govern the conduct of the canvass. Upon completion of

the canvass, the city clerk shall certify the results to the governing body who shall on the first Tuesday after the election comply with the other provisions of Section 22932.

SEC. 20.8. Section 22934 of the Elections Code is amended to read:

22934. The city clerk shall immediately sign and deliver to each person elected a certificate of election unless that person is required to and has not filed a campaign statement under Chapter 1 (commencing at Section 11500) of Division 9. He shall also administer to each person elected the oath of office prescribed in the State Constitution.

SEC. 20.9. Section 23512.4 of the Elections Code is amended to read:

23512.4. The affidavit of the nominee shall be substantially in the following form:

Affidavit of Nominee

State of California }
County of _____ } ss.

_____, under penalty of perjury, says that he is the
(Name of nominee)
above-named nominee for the office of _____, that he will accept
(Office)
the office in the event of his election, that he desires his name to appear on the ballot as follows:

_____
(Print name above)

that he desires the following occupational designation, containing not more than three words, to appear on the ballot under his name, and that such designation is in accordance with the requirements of Section 10211.

_____
(Print desired designation, if any, above)

_____
(Signature of nominee)

The occupation listed on this affidavit shall be in the manner provided in Section 10211.

SEC. 20.10. Section 23531 of the Elections Code is amended to read:

23531. Except in those districts in which voting by proxy is allowed, absent voting shall be allowed and conducted as nearly as practicable in accordance with the provisions of Division 2 pertaining to general elections.

SEC. 20.11. Section 23557 of the Elections Code is amended to read:

23557. Notwithstanding the provisions of Chapter 1 (commencing with Section 2500) of Division 4, no landowner voting

district election shall be consolidated with any resident voter election whether or not the same is held pursuant to the provisions of this part or not. Except as aforesaid, an election conducted by a district subject to the provisions of this part may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of this division.

SEC. 20.12. Section 23559 of the Elections Code is amended to read:

23559. A candidate for election to the governing body of a district shall file with the county clerk a campaign statement, pursuant to Chapter 1 (commencing with Section 11500) of Division 9, if the lawful receipts and expenses of his campaign exceed two hundred dollars ($200). If his lawful receipts and expenses do not exceed two hundred dollars ($200), a candidate for election to the governing body of a district shall file only a written declaration to this effect. The provisions of this section do not apply to a person appointed pursuant to Section 23520.

The county clerk shall notify the secretary immediately in writing when a candidate complies with the provisions of this section, if the candidate is required to do so.

SEC. 21. The heading of Division 13 (commencing with Section 25000) is amended and renumbered to read:

DIVISION 15. PARTICULAR OFFICES

SEC. 22. The heading of Division 14 (commencing with Section 27000), as proposed to be added to the Elections Code by Assembly Bill No. 3467 of the 1975–76 Regular Session of the Legislature, is amended and renumbered to read:

DIVISION 16. RECALL

SEC. 23. The heading of Division 15 (commencing with Section 29100), as proposed to be added to the Elections Code by Assembly Bill No. 3683 of the 1975–76 Regular Session of the Legislature, is amended and renumbered to read:

DIVISION 17. PENAL PROVISIONS

SEC. 23.1. Section 29412 of the Elections Code, as proposed to be added by Assembly Bill No. 3683 of the 1975–76 Regular Session of the Legislature, is amended to read:

29412. Every person, other than a public officer in the performance of official duty, is guilty of a misdemeanor who writes or causes to be written, printed, posted, or distributed any circular, pamphlet, letter, or poster which is designed to promote either the passage or defeat of a measure appearing on the ballot at any election, state or local, unless there appears upon the circular, pamphlet, letter, or poster, in a conspicuous place, either:

(a) The names and residence addresses of the chairman and secretary or the names and residence addresses of at least two officers of the organization issuing it, if issued by an organization; or

(b) The name and residence address, with the street and number, if any, of any individual responsible for it, if issued by an individual or individuals.

This section shall not apply to windshield stickers or strips designed for attachment to the bumpers of automobiles or to official ballot pamphlets or other official documents containing ballot arguments submitted pursuant to Division 5 (commencing with Section 3500).

SEC. 23.2. Section 29501 of the Elections Code, as proposed to be added by Assembly Bill No. 3683 of the 1975–76 Regular Session of the Legislature, is amended to read:

29501. Every person who prints any ballot not in conformity with the provisions of Chapter 2 (commencing with Section 10200) of Division 8, or who circulates or gives to another any ballot, knowing at the time that the ballot does not conform to the provisions of Chapter 2 (commencing with Section 10200) of Division 8, is guilty of a misdemeanor.

SEC. 24. The heading of Division 16 (commencing with Section 30000) of the Elections Code is amended and renumbered to read:

DIVISION 18. LEGISLATIVE, CONGRESSIONAL, AND EQUALIZATION DISTRICTS

SEC. 24.1. Section 416.80 of the Code of Civil Procedure is amended to read:

416.80. When authorized by Section 49 of the Elections Code, a summons may be served as provided by that section.

SEC. 25. Section 2 of this act amending and renumbering the heading of Division 1.5 (commencing with Section 1000) of the Elections Code shall only become operative if Assembly Bill No. 2606 of the 1975–76 Regular Session of the Legislature is chaptered before this act.

SEC. 26. Section 4 of this act amending and renumbering the heading of Division 3 (commencing with Section 2500) of the Elections Code shall only become operative if Assembly Bill No. 3684 of the 1975–76 Regular Session of the Legislature is chaptered before this act.

SEC. 27. Section 16 of this act amending and renumbering the heading of Chapter 3.5 (commencing with Section 14400) of Division 9 of the Elections Code shall only become operative if Assembly Bill No. 2606 of the 1975–76 Regular Session is also chaptered and it repeals Chapter 4 (commencing with Section 14600) of Division 9 of the Elections Code.

SEC. 28. Section 22 of this act amending and renumbering the heading of Division 14 (commencing with Section 27000) of the Elections Code shall only become operative if Assembly Bill No. 3467

of the 1975–76 Regular Session of the Legislature is chaptered before this act.

SEC. 29. Section 23 of this act amending and renumbering the heading of Division 15 (commencing with Section 29100) of the Elections Code shall only become operative if Assembly Bill No. 3683 of the 1975–76 Regular Session of the Legislature is chaptered before this act.

SEC. 30. It is the intent of the Legislature that each section of this bill which amends or amends and renumbers a provision, proposed to be amended or added to the Elections Code by a specified bill, referred to herein, shall only become operative if this bill is chaptered last and the specified bill amends or adds such provision to the Elections Code, as the case may be.

SEC. 31. Section 2.5 of this act, amending Section 1400 of the Elections Code, shall only become operative if both Assembly Bill No. 2606 and Assembly Bill No. 3660 are chaptered and AB 3660 amends Section 14206.

SEC. 32. It is the intent of the Legislature that if Assembly Bill No. 3467 of the 1975–76 Regular Session of the Legislature and Senate Bill No. 1392 of the 1975–76 Regular Session of the Legislature are both chaptered and this bill is also chaptered, and is chaptered last, that the provisions of both AB 3467 and SB 1392 be given effect and incorporated in Article 2 (commencing with Section 5200) of Chapter 4 of Division 4 of the Elections Code in the form set forth in Section 6.7 of this bill. Thus, if both AB 3467 and SB 1372 are chaptered, Article 2 (commencing with Section 5200) of Chapter 4 of Division 4 of the Elections Code, as proposed to be added by Assembly Bill No. 3467, is repealed, as set forth in Section 6.6 of this bill, and Sections 5200 and 5200.1 of the Elections Code, as proposed to be amended by SB 1392, are likewise repealed, as set forth in, respectively, Sections 6.8 and 6.9 of this bill.

Therefore, if this bill is chaptered last, and AB 3467 and SB 1392 are also chaptered, Sections 6.6 to 6.9, inclusive, of this bill shall become operative. In the event that AB 3467 or SB 1392, or both, are not chaptered, Sections 6.6 to 6.9, inclusive, of this bill shall not become operative.

SEC. 33. Section 14 of this bill amending Section 14005 of the Elections Code, shall not become operative if Assembly Bill No. 3683 is chaptered before this bill and AB 3683 amends Section 14005 of the Elections Code.

SEC. 34. Sections 19.2, 19.4, and 19.5 of this act, amending Sections 20021, 20300, and 20330 of the Elections Code, respectively, shall only become operative if Assembly Bill No. 3683 is also chaptered.

SEC. 35. Section 20.4 of this act, amending Section 22032 of the Elections Code, shall only become operative if Assembly Bill 2606 is also chaptered.

SEC. 36. Section 20.11 of this act, amending Section 23557 of the Elections Code, shall only become operative if Assembly Bill No. 3684 is also chaptered.

CHAPTER 1439

An act to add Chapter 3.9 (commencing with Section 7185) to Part 1 of Division 7 of the Health and Safety Code, relating to medical care.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Chapter 3.9 (commencing with Section 7185) is added to Part 1 of Division 7 of the Health and Safety Code, to read:

CHAPTER 3.9. NATURAL DEATH ACT

7185. This act shall be known and may be cited as the Natural Death Act.

7186. The Legislature finds that adult persons have the fundamental right to control the decisions relating to the rendering of their own medical care, including the decision to have life-sustaining procedures withheld or withdrawn in instances of a terminal condition.

The Legislature further finds that modern medical technology has made possible the artificial prolongation of human life beyond natural limits.

The Legislature further finds that, in the interest of protecting individual autonomy, such prolongation of life for persons with a terminal condition may cause loss of patient dignity and unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the patient.

The Legislature further finds that there exists considerable uncertainty in the medical and legal professions as to the legality of terminating the use or application of life-sustaining procedures where the patient has voluntarily and in sound mind evidenced a desire that such procedures be withheld or withdrawn.

In recognition of the dignity and privacy which patients have a right to expect, the Legislature hereby declares that the laws of the State of California shall recognize the right of an adult person to make a written directive instructing his physician to withhold or withdraw life-sustaining procedures in the event of a terminal condition.

7187. The following definitions shall govern the construction of this chapter:

(a) "Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the

treatment and care of the patient.

(b) "Directive" means a written document voluntarily executed by the declarant in accordance with the requirements of Section 7188. The directive, or a copy of the directive, shall be made part of the patient's medical records.

(c) "Life-sustaining procedure" means any medical procedure or intervention which utilizes mechanical or other artificial means to sustain, restore, or supplant a vital function, which, when applied to a qualified patient, would serve only to artificially prolong the moment of death and where, in the judgment of the attending physician, death is imminent whether or not such procedures are utilized. "Life-sustaining procedure" shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain.

(d) "Physician" means a physician and surgeon licensed by the Board of Medical Quality Assurance or the Board of Osteopathic Examiners.

(e) "Qualified patient" means a patient diagnosed and certified in writing to be afflicted with a terminal condition by two physicians, one of whom shall be the attending physician, who have personally examined the patient.

(f) "Terminal condition" means an incurable condition caused by injury, disease, or illness, which, regardless of the application of life-sustaining procedures, would, within reasonable medical judgment, produce death, and where the application of life-sustaining procedures serve only to postpone the moment of death of the patient.

7188. Any adult person may execute a directive directing the withholding or withdrawal of life-sustaining procedures in a terminal condition. The directive shall be signed by the declarant in the presence of two witnesses not related to the declarant by blood or marriage and who would not be entitled to any portion of the estate of the declarant upon his decease under any will of the declarant or codicil thereto then existing or, at the time of the directive, by operation of law then existing. In addition, a witness to a directive shall not be the attending physician, an employee of the attending physician or a health facility in which the declarant is a patient, or any person who has a claim against any portion of the estate of the declarant upon his decease at the time of the execution of the directive. The directive shall be in the following form:

DIRECTIVE TO PHYSICIANS

Directive made this _____ day of _____ (month, year).

I _____, being of sound mind, willfully, and voluntarily make known my desire that my life shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

1. If at any time I should have an incurable injury, disease, or illness certified to be a terminal condition by two physicians, and

where the application of life-sustaining procedures would serve only to artificially prolong the moment of my death and where my physician determines that my death is imminent whether or not life-sustaining procedures are utilized, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally.

2. In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this directive shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

3. If I have been diagnosed as pregnant and that diagnosis is known to my physician, this directive shall have no force or effect during the course of my pregnancy.

4. I have been diagnosed and notified at least 14 days ago as having a terminal condition by _____, M.D., whose address is _____, and whose telephone number is _____. I understand that if I have not filled in the physician's name and address, it shall be presumed that I did not have a terminal condition when I made out this directive.

5. This directive shall have no force or effect five years from the date filled in above.

6. I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

Signed _____

City, County and State of Residence _____

The declarant has been personally known to me and I believe him or her to be of sound mind.

Witness _____

Witness _____

7188.5. A directive shall have no force or effect if the declarant is a patient in a skilled nursing facility as defined in subdivision (c) of Section 1250 at the time the directive is executed unless one of the two witnesses to the directive is a patient advocate or ombudsman as may be designated by the State Department of Aging for this purpose pursuant to any other applicable provision of law. The patient advocate or ombudsman shall have the same qualifications as a witness under Section 7188.

The intent of this section is to recognize that some patients in skilled nursing facilities may be so insulated from a voluntary decisionmaking role, by virtue of the custodial nature of their care, as to require special assurance that they are capable of willfully and voluntarily executing a directive.

7189. (a) A directive may be revoked at any time by the declarant, without regard to his mental state or competency, by any of the following methods:

(1) By being canceled, defaced, obliterated, or burnt, torn, or otherwise destroyed by the declarant or by some person in his

presence and by his direction.

(2) By a written revocation of the declarant expressing his intent to revoke, signed and dated by the declarant. Such revocation shall become effective only upon communication to the attending physician by the declarant or by a person acting on behalf of the declarant. The attending physician shall record in the patient's medical record the time and date when he received notification of the written revocation.

(3) By a verbal expression by the declarant of his intent to revoke the directive. Such revocation shall become effective only upon communication to the attending physician by the declarant or by a person acting on behalf of the declarant. The attending physician shall record in the patient's medical record the time, date, and place of the revocation and the time, date, and place, if different, of when he received notification of the revocation.

(b) There shall be no criminal or civil liability on the part of any person for failure to act upon a revocation made pursuant to this section unless that person has actual knowledge of the revocation.

7189.5. A directive shall be effective for five years from the date of execution thereof unless sooner revoked in a manner prescribed in Section 7189. Nothing in this chapter shall be construed to prevent a declarant from reexecuting a directive at any time in accordance with the formalities of Section 7188, including reexecution subsequent to a diagnosis of a terminal condition. If the declarant has executed more than one directive, such time shall be determined from the date of execution of the last directive known to the attending physician. If the declarant becomes comatose or is rendered incapable of communicating with the attending physician, the directive shall remain in effect for the duration of the comatose condition or until such time as the declarant's condition renders him or her able to communicate with the attending physician.

7190. No physician or health facility which, acting in accordance with the requirements of this chapter, causes the withholding or withdrawal of life-sustaining procedures from a qualified patient, shall be subject to civil liability therefrom. No licensed health professional, acting under the direction of a physician, who participates in the withholding or withdrawal of life-sustaining procedures in accordance with the provisions of this chapter shall be subject to any civil liability. No physician, or licensed health professional acting under the direction of a physician, who participates in the withholding or withdrawal of life-sustaining procedures in accordance with the provisions of this chapter shall be guilty of any criminal act or of unprofessional conduct.

7191. (a) Prior to effecting a withholding or withdrawal of life-sustaining procedures from a qualified patient pursuant to the directive, the attending physician shall determine that the directive complies with Section 7188, and, if the patient is mentally competent, that the directive and all steps proposed by the attending physician to be undertaken are in accord with the desires of the qualified patient.

(b) If the declarant was a qualified patient at least 14 days prior to executing or reexecuting the directive, the directive shall be conclusively presumed, unless revoked, to be the directions of the patient regarding the withholding or withdrawal of life-sustaining procedures. No physician, and no licensed health professional acting under the direction of a physician, shall be criminally or civilly liable for failing to effectuate the directive of the qualified patient pursuant to this subdivision. A failure by a physician to effectuate the directive of a qualified patient pursuant to this division shall constitute unprofessional conduct if the physician refuses to make the necessary arrangements, or fails to take the necessary steps, to effect the transfer of the qualified patient to another physician who will effectuate the directive of the qualified patient.

(c) If the declarant becomes a qualified patient subsequent to executing the directive, and has not subsequently reexecuted the directive, the attending physician may give weight to the directive as evidence of the patient's directions regarding the withholding or withdrawal of life-sustaining procedures and may consider other factors, such as information from the affected family or the nature of the patient's illness, injury, or disease, in determining whether the totality of circumstances known to the attending physician justify effectuating the directive. No physician, and no licensed health professional acting under the direction of a physician, shall be criminally or civilly liable for failing to effectuate the directive of the qualified patient pursuant to this subdivision.

7192. (a) The withholding or withdrawal of life-sustaining procedures from a qualified patient in accordance with the provisions of this chapter shall not, for any purpose, constitute a suicide.

(b) The making of a directive pursuant to Section 7188 shall not restrict, inhibit, or impair in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures from an insured qualified patient, notwithstanding any term of the policy to the contrary.

(c) No physician, health facility, or other health provider, and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital service plan, shall require any person to execute a directive as a condition for being insured for, or receiving, health care services.

7193. Nothing in this chapter shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of life-sustaining procedures in any lawful manner. In such respect the provisions of this chapter are cumulative.

7194. Any person who willfully conceals, cancels, defaces,

obliterates, or damages the directive of another without such declarant's consent shall be guilty of a misdemeanor. Any person who, except where justified or excused by law, falsifies or forges the directive of another, or willfully conceals or withholds personal knowledge of a revocation as provided in Section 7189, with the intent to cause a withholding or withdrawal of life-sustaining procedures contrary to the wishes of the declarant, and thereby, because of any such act, directly causes life-sustaining procedures to be withheld or withdrawn and death to thereby be hastened, shall be subject to prosecution for unlawful homicide as provided in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 of the Penal Code.

7195. Nothing in this chapter shall be construed to condone, authorize, or approve mercy killing, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying as provided in this chapter.

SEC. 2. 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. 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 1440

An act to amend Sections 5051, 5052, 5053, 30304.5 as added by Assembly Bill No. 2948, 30334 as added by Senate Bill No. 1277 and amended by Assembly Bill No. 2948, and 30502.5, as added by Assembly Bill No. 2948, of, and to add Section 30808 to, the Public Resources Code, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

I am reducing the appropriation contained in Section 4 of Assembly Bill No 400 from $31,276,506 to $13,326,506

I am deleting or reducing the following appropriations contained in Section 5 of Assembly Bill No 400

Schedule:

(b) (1) San Clemente State Beach extension, land acquisition. I delete this appropriation

(b) (2) Dana Point Headlands, land acquisition I delete this appropriation

(b) (4) Año Nuevo State Reserve, land acquisition I delete this appropriation

(b) (5) New Brighton State Beach extension, land acquisition I delete this appropriation

(b) (10) Escondido Creek Beach (Malibu), land aquisition I delete this appropriation

(b) 11) Las Tunas State Beach extension, land acquisition I delete this appropriation

(b) (13) State beaches situated in the County of Ventura, land acquisition I delete this appropriation

(b) (14) State beaches situated in the County of San Mateo, land acquisition I delete this appropriation

(b) (15) Planning and acquisition costs I reduce the appropriation from $150,000 to $100,000

(b) (16) Augmentation for land acquisition cost increases and expenses in condemnation proceedings I delete this appropriation.

(c) (1) Planning costs I reduce this appropriation from $350,000 to $100,000.

(c) (2) Hostel facilities I reduce this appropriation from $5,950,000 to $1,900,000

In view of the competing priorities for public dollars, I think $12 million is sufficient for coastal beach and park acquisition at this time

With these reductions and deletions, I approve Assembly Bill No 400

EDMUND G BROWN JR , Governor

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

SECTION 1. Section 5051 of the Public Resources Code is amended to read:

5051. The Legislature finds that a substantial number of Californians bicycle and walk for recreational enjoyment and that, given safer routes and more suitable accommodations, would choose such travel means to reach and enjoy scenic areas and recreation facilities throughout the state. The Legislature finds that it is in the public interest to provide means for bicyclists and hikers to reach safely, and utilize conveniently, units of the state park system and local and regional parks and recreation areas. The Legislature specifically finds that the existing mix of motor vehicles and bicycles on the highways of the state creates hazards to motorists and cyclists alike and demands immediate remedial action.

SEC. 2. Section 5052 of the Public Resources Code is amended to read:

5052. As used in this article, unless the context clearly requires a different meaning:

(a) "Hostel facility" means a supervised overnight lodging or sleeping accommodation provided primarily for use by persons, including bicyclists and hikers, arriving at state park system units and local and regional parks and recreation areas. Hostel facilities shall include sleeping areas for individuals or groups, water, washrooms, sanitary facilities, and means by which the users of hostel facilities may prepare their own meals.

(b) "Recreational trail" means a pathway situated and constructed so as to provide safe and convenient means for persons, including bicyclists, hikers, and horsemen, to travel to and between state park system units other than by motor vehicle.

SEC. 3. Section 5053 of the Public Resources Code is amended to read:

5053. (a) The department may provide hostel facilities in any unit of the state park system where consistent with the general development plan for such unit, and may provide for hostel facilities in the general plan for any unit; provided, however, that no hostel facility may be provided in any unit classified as a state wilderness, natural preserve, or state reserve.

(b) The department may also provide hostel facilities at any park or recreation area under the jurisdiction of any local or regional public agency if such agency enters into an agreement with the department for the care, maintenance, and control of such facilities at the agency's expense.

SEC. 3.1. Section 30304.5 of the Public Resources Code, as added by Assembly Bill No. 2948, is amended to read:

30304.5. (a) The regional commission shall be established pursuant to the provisions of this chapter and shall, no later than January 11, 1977, select their representatives to the commission.

(b) A regional commission shall take no action, other than selecting a representative to the commission as provided in subdivision (a), and shall have no powers, duties or responsibilities pursuant to the provisions of this division unless and until the commission, pursuant to subdivision (c), has certified that the regional commission for any region is necessary to expedite the review of local coastal programs and coastal development permit applications pursuant to the provisions of this division.

(c) The commission shall review the projected workload relative to the processing and review of local coastal programs and coastal development permits within each region of the coastal zone. If the commission determines that its workload and the projected workload within any region is of such magnitude that unreasonable delays will result unless the appropriate regional commission is authorized to review and process local coastal programs and coastal development permit applications, the commission shall, by majority vote of its appointed members, certify that such regional commission is necessary to carry out the provisions of this division. Upon certification by the commission pursuant to this subdivision, the appropriate regional commission shall assume all the powers, duties and responsibilities provided in this division.

(d) In the absence of a certification pursuant to subdivision (c), the commission shall, within any region of the coastal zone, assume all the powers, duties, and responsibilities of the regional commission as provided in this division. After certification pursuant to subdivision (c), the powers, duties and responsibilities of the commission and the appropriate regional commission shall be

exercised in the manner provided in this division.

SEC. 3.2. Section 30334 of the Public Resources Code, as added by Senate Bill No. 1277, and as amended by Assembly Bill No. 2948, is further amended to read:

30334. The commission and each regional commission, subject to the approval of the commission, may do the following:

(a) Contract for any private professional or governmental services, if such work or services cannot be satisfactorily performed by its employees.

(b) Sue and be sued. The Attorney General shall represent the commission and any regional commission in any litigation or proceeding before any court, board, or agency of the state or federal government.

SEC. 3.3. Section 30502.5 of the Public Resources Code, as added by Assembly Bill No. 2948, is amended to read:

30502.5. The commission shall recommend to the Legislature for designation by statute those sensitive coastal resource areas designated by the commission pursuant to Section 30502. Recommendation by the commission to the Legislature shall place the described area in the sensitive coastal resource area category for no more than two years, or a shorter period if the Legislature specifically rejects the recommendation. If two years pass and a recommended area has not been designated by statute, it shall no longer be designated as a sensitive coastal resource area. A bill proposing such a statute may not be held in committee, but shall be reported from committee to the floor of each respective house with its recommendation within 60 days of referral to committee.

SEC. 3.4. Section 30808 is added to the Public Resources Code, to read:

30808. In addition to any other remedy provided by this article, any person, including the commission may bring an action to restrain a violation of the terms and conditions of an urban exclusion imposed pursuant to Section 30610.5. In any such action the court may grant whatever relief it deems appropriate to ensure compliance with the terms and conditions of the urban exclusion.

SEC. 4. The sum of thirty-one million two hundred seventy-six thousand five hundred six dollars ($31,276,506) is hereby appropriated from the General Fund to the Bagley Conservation Fund and shall be transferred by the State Controller to the Bagley Conservation Fund on January 1, 1977.

SEC. 5. The sum transferred to the Bagley Conservation Fund pursuant to Section 4 of this act is hereby appropriated to the following public agencies for the following purposes in accordance with the following schedule:

Schedule:

(a) For support of the agency designated by statute to assume responsibility for the California coastal zone man- agement program after January 1, 1977, to be available upon allocation by the Department of Finance $1,476,506

(b) For capital outlay by the Department of Parks and Recreation:

(1) San Clemente State Beach extension, land acquisition	$500,000
(2) Dana Point Headlands, land acquisition	$3,900,000
(3) Pismo State Beach extension, land acquisition	$4,000,000
(4) Año Nuevo State Reserve, land acquisition	$750,000
(5) New Brighton State Beach extension, land acquisition	$750,000
(6) Salt Point State Park extension (Kruse Ranch), land acquisition	$3,000,000
(7) El Matador Beach (Malibu), augmentation for land acquisition	$1,000,000
(8) El Pescador Beach (Malibu), land acquisition	$550,000

provided, that, notwithstanding the provisions of Section 5099.35 of the Public Resources Code, it is the intent of the Legislature that the amount needed to fund the acquisitions specified in subitems (7) and (8) of this item that exceeds the amounts appropriated by subitems (7) and (8) or by any other appropriation of state funds shall be funded with grant moneys received by the state pursuant to the Land and Water Conservation Fund Act of 1965 (P.L. 88-578; 78 Stats. 897).

(9) La Piedra Beach (Malibu), land acquisition	$1,200,000
(10) Escondido Creek Beach (Malibu), land acquisition	$200,000
(11) Las Tunas State Beach extension, land acquisition	$300,000

provided, that no funds appropriated by subitems (7) to (11), inclusive, of this item shall be expended until the Department of Parks and Recreation enters into an agreement with the County of Los Angeles pursuant to Section 5007 of the Public Resources Code for the care, maintenance, and control of all the lands to be acquired with funds appropriated by such subitems.

(13) State beaches situated in the County of Ventura, land acquisition	$2,500,000
(14) State beaches situated in the County of San Mateo, land acquisition	$1,000,000
(15) Planning and acquisition costs	$150,000

(16) Augmentation for land acquisition cost increases and expenses in condemnation proceedings $3,700,000

provided, that none of the funds appropriated for acquisition of parklands by this item shall be expended on the purchase of real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims 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.

(c) For capital outlay by the Department of Parks and Recreation for hostel facilities, pursuant to Article 4 (commencing with Section 5050) of Chapter 1 of Division 5 of the Public Resources Code, at locations on or near the coast that are readily accessible to low- and middle-income populations of major urban areas and that are most suitable for providing visitor facilities for the greatest number of such persons:

(1) Planning costs..... $350,000

(2) Hostel facilities..... $5,950,000

provided, that no funds appropriated by subitem (2) may be expended until the department submits to the Joint Legislative Budget Committee a plan describing the hostel facilities to be constructed and identifying their locations; and provided, further that such plan shall be submitted on or before July 1, 1977.

SEC. 6. If this bill is chaptered after Assembly Bill No. 2995 of the 1975–76 Regular Session of the Legislature, Section 3 of Assembly Bill No. 2995, insofar as it relates to a contribution of part of the cost of acquiring Carma Ranch—El Matador Beach by the state, shall be of no force and effect. Rather, funds appropriated by Assembly Bill No. 2995 may be expended irrespective of the requirement therein relating to such a contribution; and, further, it is the intent of the Legislature that Carma Ranch—El Matador Beach be acquired by funds appropriated by Assembly Bill No. 2995 and by subdivision (7) of item (b) of Section 5 of this act and that any deficiency in such funding be met with grant moneys received by the state pursuant to the Land and Water Conservation Fund Act of 1965, as provided in the proviso applicable to subitems (7) and (8) of item (b) of Section 5.

SEC. 7. Acquisition of land pursuant to Section 5 of this act shall be subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

SEC. 7.5. Sections 3.1, 3.2, 3.3, and 3.4 of this act shall become operative January 1, 1977, and only if Senate Bill No. 1277 and Assembly Bill No. 2948 both become operative.

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:

In order that the state may provide financing for urgently needed parks, beaches, and recreation areas at considerable savings to the public and in order that the planning for such acquisitions may commence without costly delay, it is necessary that this act take effect immediately.

CHAPTER 1441

An act to add Division 21 (commencing with Section 31000) to the Public Resources Code, relating to coastal resources.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Division 21 (commencing with Section 31000) is added to the Public Resources Code, to read:

DIVISION 21. STATE COASTAL CONSERVANCY

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

31000. Unless the context otherwise requires, the definitions in this chapter govern the construction of this division.

31001. "Certified local coastal plan or program" means any plan or program certified by the commission pursuant to Chapter 6 (commencing with Section 30500) of Division 20.

31002. "Conservancy" means the State Coastal Conservancy.

31004. "Commission" means the California Coastal Commission established under Chapter 4 (commencing with Section 30300) of Division 20.

31006. "Coastal zone" means that area of the state as defined in Section 30103.

31007. "Coastal restoration project" means any action taken by a local public agency or the conservancy to correct undesirable development patterns in the coastal zone, including those defined in

Section 33032 or 33032.1 of the Health and Safety Code.

31008. "Coastal resource enhancement project" means actions taken by a local public agency or a state agency necessary to restore, as nearly as possible, degraded natural areas to their original condition or to enhance the resource values of a coastal zone.

31009. "Department" means the Department of Parks and Recreation.

31010. "Local public agency" means a city, county, or city and county.

CHAPTER 2. DECLARATION OF STATE POLICY AND GENERAL PROVISIONS

31050. The Legislature finds and declares that the agricultural lands located within the coastal zone contribute substantially to the state and national food supply and are a vital part of the state's economy.

31051. The Legislature further finds and declares that agricultural lands located within the coastal zone should be protected from intrusion of nonagricultural uses, except where conversion to urban or other uses is in the long-term public interest.

31052. The Legislature further finds and declares that lands within the coastal zone, principally in rural areas, are vacant or improperly utilized because of inadequate circulation patterns, poor lot layout, scattered ownerships, lack of recreation and open space, and other conditions which adversely affect the coastal environment and reduce opportunities for orderly development.

31053. The Legislature further finds and declares that important fish and wildlife habitat, natural areas, and scenic and environmental resources within the coastal zone have been degraded due to indiscriminate dredging, filling, and the intrusion of incompatible land uses.

31054. It is the policy of the state and the intent of the Legislature to provide for the State Coastal Conservancy, which should report to the Governor and to the Legislature, with responsibility for implementing a program of agricultural protection, area restoration, and resource enhancement in the coastal zone within policies and guidelines established pursuant to Division 20 (commencing with Section 30000).

31055. No funds may be expended or granted under this division, unless and until such funds are appropriated by the Legislature.

CHAPTER 3. ESTABLISHMENT AND FUNCTIONS OF THE STATE COASTAL CONSERVANCY

31100. There is in the Resources Agency the State Coastal Conservancy, consisting of the following five members:

(a) The chairman of the commission.

(b) The Secretary of the Resources Agency.

(c) The Director of Finance.

(d) Two members of the public appointed by the Governor.

Except for members appointed pursuant to subdivision (d), the members of the conservancy may designate one of their employees to serve on the conservancy in their absence.

31101. The members appointed under subdivision (d) of Section 31100 shall serve for a term of four years. Such members shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per day, and shall be reimbursed for the actual and necessary expenses, including traveling expenses, incurred in the performance of their duties.

31102. The Secretary of the Resources Agency shall serve as the chairman of the conservancy. A majority of the total authorized membership of the conservancy shall constitute a quorum for the transaction of any business under this division. The conservancy shall adopt its own regulations.

31103. The conservancy shall determine the qualifications of, and it shall appoint and fix the salary of, the executive officer of the conservancy, who shall be exempt from civil service, and shall appoint such other staff as may be necessary to carry out the powers and functions set forth in this division. To the maximum extent possible, the conservancy shall utilize the staff of the commission for purposes of planning and project evaluation, and the staff of the Real Estate Services Division of the Department of General Services in carrying out acquisition, leasing, disposal, and other real property transactions authorized under this division.

31104. The conservancy may apply for and accept federal grants and receive gifts, donations, subventions, rents, royalties, and other financial support from public and private sources.

31105. The conservancy is authorized to acquire, pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850), Division 3, Title 2 of the Government Code) real property or any interests therein for all of the purposes specified in this division.

31106. The State Public Works Board may, pursuant to Section 31105, use the power of eminent domain for the purposes specified in this division.

31107. The Director of General Services, when so requested by the conservancy, may lease, rent, sell, or exchange any land acquired pursuant to this division; provided, however, that such action shall guarantee continued use of such lands for agricultural purposes, or for other purposes established in this division Leases executed pursuant to the provisions of this division shall not provide for a

period longer than 10 years.

31108. Commencing on January 2, 1980, and every third year thereafter, the conservancy shall prepare and submit to the Governor and to the Legislature a report describing progress in achieving the objectives of this division. The report shall include the following:

(a) An evaluation of the effectiveness of the conservancy's programs in preserving agricultural lands, restoring coastal habitat, providing public access to the coastline, and in undertaking other functions prescribed in this division.

(b) Identification of additional funding, legislation, or other resources required to more effectively carry out the objectives of this division.

CHAPTER 4. PRESERVATION OF AGRICULTURAL LAND

31150. The conservancy may acquire fee title, development rights, easements, or other interests in land located in the coastal zone in order to prevent loss of agricultural land to other uses and to assemble agricultural lands into parcels of adequate size permitting continued agricultural production.

The conservancy shall take all feasible action to return to private use or ownership, with appropriate use restrictions, all lands acquired for agricultural preservation under this division.

31151. In acquiring interest in agricultural lands, as provided in this division, the conservancy shall give the highest priority to urban fringe areas where the impact of urbanization on agricultural lands is greatest.

31152. Notwithstanding any other provisions of this division to the contrary, the conservancy shall not act to acquire any interests in lands in the coastal zone for agricultural purposes until the proposed acquisition has been submitted to the commission and the commission has certified that both of the following conditions apply to the proposed acquisition:

(a) The lands are specifically identified in a certified local coastal plan or program as agricultural lands.

(b) There is no other reasonable means, including the use of police power, of assuring continuous use of such lands for agricultural purposes.

31153. If the conservancy is unable to purchase an interest in agricultural land which meets the provisions of Section 31152, the conservancy shall request the State Public Works Board to acquire such interest under the power of eminent domain pursuant to Section 31105.

31154. The conservancy is authorized to lease lands acquired in accordance with the provisions of Section 31150. When such leases are made to private individuals or groups, the conservancy shall annually, upon appropriation of such amounts by the Legislature, transfer 24 percent of the gross income of such leases to the county

in which such lands are situated.

The county shall distribute any payment received by it pursuant to this section to itself, to each revenue district for which the county assesses and collects real property taxes or assessments, and to every other taxing agency within the county in which the property is situated. The amount distributable to the county and each such revenue district or other taxing agency shall be proportionate to the ratio which the amount of the taxes and assessments of each on similar real property similarly situated within that part of the county embracing the smallest in area of the revenue districts or other taxing agencies other than the county, levied for the fiscal year next preceding, bears to the combined amount of the taxes and assessments of all such districts and agencies, including the county, on such property levied for that year. The county auditor shall determine and certify the amounts distributable to the board of supervisors, which shall thereupon order the making of the distribution.

Any money distributed pursuant to this section to any county, revenue district, or other taxing agency shall be deposited to the credit of the same fund as any taxes or assessments on any taxable similar real property similarly situated.

Where a county receives a payment pursuant to this section in an amount of twenty-five dollars ($25) or less in respect to any parcel of leased property, all of such payment shall be distributed to the county for deposit in the county general fund.

31155. Proceeds from the sale or lease of lands acquired under the provisions of Section 31150 shall be deposited with the conservancy and, after transmission of any payments required by Section 31154, shall be available for expenditure when appropriated by the Legislature for the purpose of funding the programs specified in this division.

CHAPTER 5. COASTAL RESTORATION PROJECTS

31200. The conservancy may award grants to local public agencies for the purpose of restoration of areas of the coastal zone which, because of scattered ownerships, poor lot layout, inadequate park and open space, incompatible land uses, or other conditions, are adversely affecting the coastal environment or are impeding orderly development. Grants under this section shall be utilized for the assembly of parcels of land within designated coastal restoration areas, for the redesign of such areas, and the installation of public improvements required to serve such areas. As provided in this chapter, the cost of acquisition of certain coastal access and open-space lands, other than those acquired through dedication, within restoration areas may be funded through the conservancy. Grants under this section may not be utilized as a method of acquisition of public park, recreation, or wildlife areas, except as such uses may be incidental to a coastal restoration project. After redesign

and installation of public improvements, if any, lands containing coastal restoration projects, with the exception of lands acquired for public purposes as provided in this chapter, shall be conveyed to any person for the purpose of development in accordance with a restoration plan approved under Section 31208.

31201. All areas proposed for restoration by a local public agency or by the conservancy shall be identified in a certified local coastal plan or program as requiring public action to resolve existing or potential development problems.

31203. In reviewing grant applications and restoration plans, the conservancy shall seek to promote excellence of design and shall stimulate projects which exhibit innovation in sensitively integrating man-made features into the natural coastal environment.

31204. The conservancy may provide up to the total cost of any coastal restoration project, including the local share of federally supported projects. The conservancy may also require local funding participation in coastal restoration projects. The amount of funding provided by the conservancy and the degree of local participation shall be determined by the total amount of funding available for coastal restoration projects, the fiscal resources of the applicant, the urgency of the project relative to other eligible coastal restoration projects, the degree to which the project meets the objectives set forth in Section 31203, and the application of other factors prescribed by the conservancy for the purpose of determining project eligibility and priority in order to more effectively carry out the provisions of this division.

31205. The conservancy shall request the commission, local public agencies, and other public and private groups to assist in the development of criteria and guidelines for the submission, evaluation, and determination of priority of coastal restoration projects. After considering comments received from such sources and ensuring that adequate opportunity for public review and comment has been provided, the conservancy shall adopt guidelines and criteria for the administration of the coastal program authorized under this chapter.

31206. In accordance with procedures adopted by the conservancy, local public agencies may submit proposed coastal restoration projects for consideration by the conservancy. After evaluation of the submitted project proposals, the conservancy shall annually prepare a schedule of projects proposed for grants under this chapter. The schedule shall be submitted to the commission for review. The commission shall have 90 days to review and to determine the consistency of the projects with Division 20 (commencing with Section 30000). If no comments are received at the end of such period, the projects shall be deemed to be in accordance with Division 20 (commencing with Section 30000). The conservancy shall not provide a grant for any project under this chapter unless the project has been certified by the commission as being in accord with the policies and objectives of Division 20

(commencing with Section 30000).

31207. Following certification of the annual schedule by the commission, the conservancy shall notify, in writing, local applicants whose projects have been approved for funding and shall request that each applicant prepare a plan for restoration of the area following guidelines established by the conservancy. Local public agencies shall have six months to prepare such plans. The conservancy may provide up to fifty thousand dollars ($50,000) of the cost of preparing local coastal restoration plans.

31208. Following receipt of a restoration plan from a local public agency, the conservancy shall forward such plan to the commission for determination of conformity of such plan with the policies and objectives of Division 20 (commencing with Section 30000). The commission shall have 60 days to review the project and transmit the findings on such plan to the conservancy. If no comments are received within such period, the restoration plan shall be deemed to be in accord with Division 20 (commencing with Section 30000).

31209. Following approval of a restoration plan as provided in Section 31208, the conservancy shall so notify the local public agency and shall authorize the agency to proceed with actions required to implement the plan.

31210. Costs of providing parks, open space, or other public areas and facilities may be included as project costs within coastal restoration areas, if they are designed to serve the residents of the restoration area and do not constitute a disproportionate share of the total project cost. Costs of providing public coastal access sites and scenic easements serving the public may be permitted as project costs where such features are identified in the certified local coastal plan or program.

31211. The conservancy and local public agencies, in undertaking coastal restoration projects as provided in this chapter, shall be subject to the provisions of Division 24 (commencing with Section 33000) of the Health and Safety Code.

31212. Any funds over and above eligible project costs which remain after completion of a coastal restoration project as provided in this chapter shall be transmitted by the local public agency to the state and deposited with the conservancy and shall be available for expenditure when appropriated by the Legislature for the purposes of funding the programs specified in this division.

31213. Where a local public agency is unable or unwilling to undertake restoration of any deteriorating area within the coastal zone identified in a certified local coastal plan or program, including the acquisition of and disposal of lands and improvements, the conservancy may undertake such restoration. Such action, however, shall not be undertaken until the commission has done both of the following:

(a) Certified that the project is of high priority in terms of accomplishment of the policies and objectives of Division 20 (commencing with Section 30000).

(b) Approved a restoration plan for the area as provided in Section 31208.

31214. A restoration plan prepared for a project to be carried out by the conservancy as provided in Section 31213, shall, before any lands are acquired or other implementation actions taken, be submitted to the local public agency which exercises land use regulation over the area of the proposed project. The local public agency shall have 90 days to review and comment on the proposed coastal restoration project. If, during such period, the local public agency agrees to carry out the project within the guidelines established in the restoration plan, the conservancy may authorize the local public agency to carry out such restoration which shall then be subject to all provisions of this division.

31215. Prior to undertaking any restoration project under the provisions of Section 31213, the project shall be included within, and funded under, the Budget Act.

CHAPTER 6. COASTAL RESOURCE ENHANCEMENT PROJECTS

31251. The conservancy may award grants to local public agencies and to state agencies for the purpose of resource enhancement of coastal resources which, because of indiscriminate dredging or filling, improper location of improvements, or incompatible land uses, have suffered loss of natural and scenic values. Grants under this chapter shall be utilized for the assembly of parcels of land within coastal resource enhancement areas to improve resource management, for relocation of improperly located or designed improvements, and for other corrective measures which will enhance the natural and scenic character of the areas. As provided in this chapter, the cost of acquisition of certain lands within coastal resource enhancement areas may be funded through the conservancy. Grants under this section may not be utilized as a method of acquisition of public park, wildlife, or natural areas, except as such uses may be incidental to a coastal resource enhancement project.

31252. All areas proposed for resource enhancement by a local public agency or a state agency shall be identified in a certified local coastal plan or program as requiring public action to resolve existing or potential resource protection problems.

31253. The conservancy may provide up to the total of the cost of any coastal resource enhancement project, including the state or local share of federally supported projects. The amount of funding provided by the conservancy shall be determined by the total amount of funding available for coastal resource enhancement projects, the fiscal resources of the applicant, the urgency of the project relative to other eligible coastal resource enhancement projects, and the application of other factors prescribed by the conservancy for the purpose of determining project eligibility and priority in order to more effectively carry out the provisions of this division.

31254. The conservancy shall request the commission, local public agencies, and other public and private groups to assist in the development of criteria and guidelines for the submission, evaluation, and determination of priority of coastal resource enhancement projects. After considering comments received from such sources and ensuring that adequate opportunity for public review and comment has been provided, the conservancy shall adopt guidelines and criteria for the administration of the coastal program authorized under this chapter.

31255. In accordance with procedures adopted by the conservancy, local public agencies and state agencies may submit proposed coastal resource enhancement projects for consideration by the conservancy. After evaluation of the project proposals submitted, the conservancy shall annually prepare a schedule of projects proposed for grants under this chapter. The schedule shall be submitted to the commission for review. The commission shall have 90 days to review and make a formal finding on each of the projects included in the schedule. If no comments are received at the end of such period, the projects shall be deemed to be in accordance with Division 20 (commencing with Section 30000).

31256. The conservancy shall not provide a grant for any project under this chapter unless the project has been certified by the commission as being in accord with the policies and objectives of Division 20 (commencing with Section 30000).

31257. Following review and approval of the annual schedule by the commission, the conservancy shall notify, in writing, the state or local public agencies whose projects have been approved for funding and shall request that each applicant prepare a plan for resource enhancement for the area following the guidelines established by the conservancy. Such agencies shall have six months to prepare such plans. The conservancy may provide up to fifty thousand dollars ($50,000) of the cost of preparing local coastal resource enhancement plans.

31258. Following receipt of a resource enhancement plan, the conservancy shall forward the plan to the commission for determination of conformity of the plan with the policies and objectives of Division 20 (commencing with Section 30000). The commission shall have 60 days to review the project and transmit findings on such plan to the conservancy. If no comments are received at the end of such period, the plan shall be deemed to be in accord with Division 20 (commencing with Section 30000).

31259. Following review and approval of a resource enhancement plan as provided in Section 31258, the conservancy shall so notify the agency and shall authorize the agency to proceed with actions required to implement the plan.

31260. As part of an approved coastal resource enhancement project, the conservancy may fund up to 40 percent of any costs of land acquisition.

31261. Private development may be permitted within the area of the coastal resource enhancement projects, where such development is compatible with the primary objectives of resource protection and enhancement of the coastal zone.

31262. Any funds over and above eligible project costs which remain after completion of a resource enhancement project as provided in this chapter shall be transmitted to the state and be deposited with the conservancy and shall be available for expenditure when appropriated by the Legislature for the purposes of funding the programs specified in this division.

31263. If a local public agency or state agency is unable or unwilling to undertake improvement of a deteriorating area, the conservancy may undertake such coastal resource enhancement project. Such action, however, shall not be undertaken until the commission has done both of the following:

(a) Certified that the project is of high priority in terms of accomplishment of the policies and objectives of Division 20 (commencing with Section 30000).

(b) Approved a resource enhancement plan for the area as specified in Section 31258.

31264. A resource enhancement plan prepared for a project to be carried out directly by the conservancy as provided in Section 31263, shall, before any lands are acquired or other implementation actions taken, be submitted to the local public agency which exercises land use regulation over the area of the proposed project and to any state agency which exercises resource management responsibility in the project area. The local public agency or state agency shall have 90 days to review and comment on the proposed coastal resource enhancement project. If, during such period the local public agency or state agency agrees to carry out the project within the guidelines established in the resource enhancement plan, the conservancy may authorize the local public agency or state agency to carry out such enhancement which shall then be subject to all provisions of this division.

31265. Prior to undertaking any resource enhancement project under the provisions of Section 31263, the project shall be included within, and funded under, the Budget Act.

CHAPTER 7. RESOURCE PROTECTION ZONES

31300. It is the intent of the Legislature to establish buffer areas, to be known as resource protection zones, surrounding public beaches, parks, natural areas, and fish and wildlife preserves in the coastal zone. The purpose of such zones shall be to ensure that the character and intensity of private development surrounding any such areas and preserves is generally compatible with, and does not adversely impact, sensitive resource values located within such public areas and preserves.

31300.1. The conservancy may award grants to state agencies for

purposes of the acquisition of interests in lands within resource protection zones in accordance with Section 31304. Grants pursuant to this section shall not be utilized as a method of acquisition of lands which are intended to be an integral part of a public park, wildlife, or natural area.

31300.2. The conservancy may provide up to the full amount of the cost of acquisition of any interest in lands within a resource protection zone. The amount of funding provided by the conservancy shall be determined by the total amount of funding available for resource protection projects, the fiscal resources of the applicant, the urgency of the project relative to other eligible projects, and the application of factors prescribed by the conservancy for the purpose of determining project eligibility and priority in order to more effectively carry out the provisions of this division.

31301. The Department of Parks and Recreation, the Department of Fish and Game, and other state agencies which own or operate public resource areas within the coastal zone shall: (1) identify units under their jurisdiction which are particularly susceptible to adverse impacts from surrounding development, and (2) define the general boundaries of impact areas around such units.

Such state agencies shall complete the study of impact areas and shall forward recommendations for establishment of resource protection zones to the commission not later than January 1, 1979. The commission shall refer resource protection zone proposals to local public agencies which have jurisdiction over land use regulation in the proposed zones.

31302. Following receipt of the proposed resource protection zones from the commission, local public agencies shall have 60 days in which to submit comments to the commission regarding establishment of the proposed zones.

31303. After considering the comments of local public agencies, the commission shall adopt the resource protection zones and shall recommend their inclusion as part of the appropriate local coastal plan or program. The commission shall specify guidelines to guide local jurisdictions in bringing local land use plans and ordinances into conformity with the objectives of the resources protection zones.

31304. When private development of lands within an adopted resource protection zone will clearly damage resource values within an adjacent public area, and where exercise of the police power to protect such resource values would be unreasonable, a state agency may, through purchase, dedication, or other means, acquire development rights, scenic easements, or other interests, not including fee title, in private lands in resource protection zones. No state agency shall acquire such interests until the commission has certified that such action is in accord with Division 20 (commencing with Section 30000) and is necessary to assure the protection of the resource values within approved resource protection zones.

31305. When any state agency is unable to secure through

negotiation, development rights, scenic easements, or other interests required to protect public resource values as provided in Section 31304, the conservancy may request the State Public Works Board to exercise the power of eminent domain to acquire such interests pursuant to Section 31105.

31305.5. The conservancy may provide funds to any state agency for the purpose of carrying out the provisions of Section 31301.

31306. The commission shall request that federal, regional, and local agencies which own or operate public resource areas within the coastal zone take appropriate action to establish resource protection zones surrounding such areas in a manner similar to that set forth in this chapter for areas under the jurisdiction of the state.

CHAPTER 8. RESERVATION OF SIGNIFICANT COASTAL RESOURCE AREAS

31350. It is the policy of the Legislature to assure that areas identified in any state, regional, or local plan as significant coastal resource sites shall be reserved for public use and enjoyment. To achieve this objective, it is the intent of the Legislature to vest in the Department of Parks and Recreation authority to acquire and hold key coastal resource lands which otherwise would be lost to public use.

31350.1. The conservancy may make interest-free loans to the department for the purpose of reserving lands specified in Section 31351. Such loans shall be for a period not to exceed 10 years. Upon the disposition of such lands, as provided in Section 31354, the department shall repay all funds advanced by the conservancy. Such funds shall be deposited with the conservancy and shall be available for expenditure when appropriated by the Legislature for the purposes of funding the programs specified in this division.

31351. The department shall cooperate with the commission and with other state and local public agencies in ensuring that sites designated in the certified local coastal plans or programs for park, recreation, fish and wildlife habitat, historical preservation, or scientific study are reserved and ultimately utilized for such public purposes.

31352. In the event that any state or local public agency is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire a site which is designated in a certified local coastal plan or program, the department may acquire and hold the site for subsequent conveyance to the appropriate public agency.

31353. Notwithstanding any other provisions of law, the department may enter into an option to purchase the lands designated in Section 31350 if the total cost of any such option does not exceed one hundred thousand dollars ($100,000), when the Legislature appropriates funds for purposes of carrying out the objectives of this section.

31354. The department shall not hold lands acquired in

accordance with this chapter more than 10 years from the time of acquisition. A local public agency shall have the right to acquire the land at any time during such period for public purposes indicated in a certified local coastal plan or program. The acquisition price to local agencies shall be based upon the cost of acquisition under this division, plus administrative and management costs in reserving the land. The lands acquired under the provisions of this section shall not be disposed of under the provisions of Section 11011.1 of the Government Code.

If, at the expiration of such 10-year period, no public agency is willing or able to acquire the lands, the department shall request the Real Estate Services Division of the Department of General Services to dispose of such lands at fair market value without restriction on subsequent land use under this division.

31355. The department is authorized to lease lands acquired in accordance with this chapter. When such leases are made to private individuals or groups, the department shall annually, upon appropriation of such amounts by the Legislature, transfer 24 percent of the gross income of such leases to the county in which such lands are situated.

The county shall distribute any payment received by it pursuant to this section to itself, to each revenue district for which the county assesses and collects real property taxes or assessments, and to every other taxing agency within the county in which the property is situated. The amount distributable to the county and each such revenue district or other taxing agency shall be proportionate to the ratio which the amount of the taxes and assessments of each on similar real property similarly situated within that part of the county embracing the smallest in area of the revenue districts or other taxing agencies other than the county, levied for the fiscal year next preceding, bears to the combined amount of the taxes and assessments of all such districts and agencies, including the county, on such property levied for that year. The county auditor shall determine and certify the amounts distributable to the board of supervisors, which shall thereupon order the making of the distribution.

Any money distributed pursuant to this section to any county, revenue district, or other taxing agency shall be deposited to the credit of the same fund as any taxes or assessments on any taxable similar real property similarly situated.

Where a county receives a payment pursuant to this section in an amount of twenty-five dollars ($25) or less in respect to any parcel of leased property, all of such payment shall be distributed to the county for deposit in the county general fund.

31355.5. The conservancy may provide funds to the department for the purpose of carrying out the provisions of this chapter.

31356. All remaining revenue derived from leases, after allocation to counties as specified in Section 31355, shall be deposited annually with the conservancy and shall be available for expenditure

03544 29 8150 323

when appropriated by the Legislature for the purposes of funding the programs specified in this division.

CHAPTER 9. SYSTEM OF PUBLIC ACCESSWAYS

31400. The Legislature finds and declares that it is the policy of the state that the right of the public to access and enjoyment of the coastal resources should be effectively guaranteed. To achieve such objective, it is the intent of the Legislature to vest in the Department of Parks and Recreation authority to implement a system of public accessways to and along the state's coastline.

31400.1. The conservancy may award grants to the department for purposes of the acquisition of interests in, and for initial development of, lands required for public accessways to the coast. The conservancy may also award grants to local agencies for the initial development of public accessways to the coast where it is determined that such accessways are required to serve more than local needs.

31400.2. The conservancy may provide up to the total cost of the acquisition of interests in lands and the initial development of public accessways by the department. The conservancy may also provide up to the total cost of the initial development of public accessways by local agencies, as provided in Section 31400.1. The amount of funding provided by the conservancy shall be determined by the total amount of funding available for coastal public accessway projects, the fiscal resources of the applicant, the urgency of the project relative to other eligible projects, and the application of factors prescribed by the conservancy for the purpose of determining project eligibility and priority in order to more effectively carry out the provisions of this division.

31401. The department shall develop and adopt standards to guide state and local public agencies and federal agencies to the extent permitted by federal law or regulations or the United States Constitution in acquiring and developing public access to coastal resources.

31402. In order to assure that an adequate system of public accessways is provided along the entire coastline, the department may acquire fee title or lesser interests, develop, and maintain areas required for public access to significant coastal resources.

31403. The department may not acquire any public access site unless such acquisition is approved by the Legislature as part of its annual approval of the Budget Act.

31404. When another local public agency is unable or unwilling to take title to an area required for public access to and along the coastline, the department may accept title to such an area. The department, however, shall not be required to open any area for public use when, in its estimation, the benefits of public use would be outweighed by the costs of development and maintenance. The department shall make a determined effort to identify local public

agencies which will accept responsibility for maintenance and liability for public accessways which are located outside of the state park system. The department may lease any public access site to a public agency; provided, however, that the conditions of such transfer guarantee public use of the site for access to coastal resources.

31405. The department may accept from any state or local public agency fees collected for purposes of providing public access to coastal resources. Any funds collected from such source shall be expended by the department for the sole purpose of acquisition, development, and maintenance of public accessways to the coastline. To the maximum extent possible, such fees shall be expended in the general area where they are collected or in areas where public access to and along the coastline is clearly deficient. The department may transfer funds, including such fees, to a local public agency for the purposes of acquisition of sites for public access to and along the coastline.

31405.5. The conservancy may provide funds to the department for the purpose of planning and maintaining a system of public accessways to and along the state's coastline.

31406. Commencing on January 2, 1978, the department shall annually prepare and submit to the Governor, the Legislature, and the commission a report describing progress in achieving the objectives of this chapter, including requirements for funding, staffing, and further legislation.

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 shall become operative only if Senate Bill No. 1277 of the 1975–76 Regular Session is enacted and shall become operative at the same time as Senate Bill No. 1277.

CHAPTER 1442

An act to amend Section 1453 of the Unemployment Insurance Code, relating to unemployment compensation.

[Approved by Governor September 30, 1976 Filed with Secretary of State September 30, 1976]

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

SECTION 1. Section 1453 of the Unemployment Insurance Code is amended to read:

1453. As used in this chapter:

(a) (1) "State employee" means an individual who has permanent or probationary civil service status in employment by this state, other than intermittent employees, and who meets any one of the following conditions:

(A) He has received a written notice of layoff pursuant to Article 2 (commencing with Section 19530) of Chapter 8 of Part 2 of Division 5 of Title 2 of the Government Code.

(B) He has terminated his employment or his employment has been terminated by his employer.

(C) He was employed as nonteaching staff personnel in special schools under the jurisdiction of the Department of Education.

(2) Nothing in this subdivision shall permit a state employee, as defined, to receive unemployment compensation benefits if he would be ineligible for or disqualified to receive such benefits under Article 1 (commencing with Section 1251) of Chapter 5 of Part 1 of Division 1.

(b) "State wages" means all remuneration payable to a state employee for personal services performed as a state employee prior to (1) the effective date of such notice of layoff or (2) 30 days after such employee terminates his employment or has his employment terminated by his employer, including the reasonable cash value of all remuneration payable in any medium other than cash, and includes all such remuneration paid on and after October 1, 1969.

(c) "State base period" means the period of the last four complete consecutive calendar quarters, and any subsequent complete and partial calendar month or months, immediately preceding the effective date of a new claim for unemployment compensation benefits by a state employee.

(d) "Base period" means the base period defined by Section 1275.

SEC. 2. This act shall apply to individuals whose separation from state civil service occurs on or after January 1, 1977, except that no new claim filed by any individual newly included within the definition of "state employee" by this act shall be a valid claim unless the claim has an effective date commencing on or after January 1, 1978. 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.

CHAPTER 1443

An act to amend Sections 70025, 70046, and 76007 of, and to add Sections 68523 and 70059.9 to, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 68523 is added to the Government Code, to read:

68523. (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 Luis Obispo 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 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.

(5) Such other information as the Judicial Council may require.

SEC. 2. Section 70025 of the Government Code is amended to read:

70025. In Riverside County, the board of supervisors shall fix the salary of regular official reporters, which shall not be less than an annual salary of twenty thousand two hundred ten dollars ($20,210) and the compensation of official reporters pro tempore, which shall be at a rate not less than seventy-five dollars and twenty-five cents ($75.25) a day, for reporting in shorthand all proceedings in the superior court as required by law or the order of the superior court.

SEC. 3. Section 70046 of the Government Code is amended to read:

70046. In San Bernardino County, the board of supervisors shall fix the salary of regular official reporters, which shall not be less than an annual salary of twenty thousand two hundred ten dollars ($20,210) and the compensation of official reporters pro tempore, which shall be at a rate not less than seventy-five dollars and twenty-five cents ($75.25) a day.

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. 4. Section 70059.9 is added to the Government Code, to read:

70059.9. In San Luis Obispo County, each regular official reporter shall be paid a monthly salary which shall be recommended by the superior court and approved by the board of supervisors. This salary shall include payment for services in reporting all proceedings in the superior court, before the grand jury, and before coroner's inquests. The initial hiring rate for each position shall be step 1, 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. Step advancement from step 1 to step 2 may be granted following completion of six full months of service in the position. Thereafter, a person may advance to each succeeding step upon completion of a 12-month period of full-time service at the previous step. All step advancements pursuant to this section shall be determined by the judges of the court. 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.

Reporters pro tem shall be paid at a 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 travel and other expenses when necessarily called from other counties. Rates of compensation of official reporters pro tem may be adjusted by approval of the board of supervisors upon the recommendation of a majority of the judges of the court.

Each official court reporter shall be an attaché of the superior court and shall serve at the pleasure of the appointing judges, but shall be entitled to the same benefits and privileges respecting retirement, group insurance, social security, vacation, sick leave and other fringe benefits which are provided to county employees.

In San Luis Obispo County, the fee required by Section 70053 shall be fifteen dollars ($15).

In addition to any fee otherwise required, in civil cases that last longer than three (3) judicial days, a fee per day equal to the per diem rate for official reporters pro tem shall be charged to the parties for the services of an official reporter for the fourth and each succeeding day a reporter is required.

SEC. 5. Section 76007 of the Government Code is amended to read:

76007. In San Bernardino County, jurors' fees shall be as follows: for attending as a grand juror for each day's attendance, including each day's attendance at committee meetings and investigations upon the order of the grand jury, five dollars ($5); for attending as a juror in the superior court, for each day's attendance, five dollars

4686 298260 345

($5). For each mile actually traveled in attending court as a juror, ten cents ($0.10) shall be allowed; for attending meetings of the grand jury, committee meetings or investigations, necessary expenses and the same mileage rate as is provided by the county for reimbursement of county employees for official use of private automobiles.

SEC. 6. 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 as 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 Luis Obispo County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in this county in view of the submitted request for an adjustment in the compensation provided to court reporters in such county.

SEC. 7. In the event that Section 68519 of the Government Code as it relates to San Bernardino County or Sections 2 or 5 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, Sections 2 and 5 of this act shall be void, and to this end, Sections 2 and 5 of this act and Section 68519 of the Government Code as it relates to San Bernardino County are inseverable.

SEC. 8. In the event that Sections 1, 3 or 4 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, every application of Sections 1, 3, and 4 of this act shall be void, and to this end Sections 1, 3, and 4 of this act are inseverable.

SEC. 9. 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 1444

An act to amend Section 20685 of the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 20685 of the Government Code is amended to read:

20685. If a basic death benefit has become or becomes payable before the payment of the total amount the member elected to pay under any election with respect to normal contributions permitted under this part, the member's entire compensation, or the service upon which that total amount was based, as the case may be, shall be included in the computation of the portion of the death benefit which is provided in subdivision (b) of Section 21361, and the unpaid balance of the total amount shall not be paid to this system, nor shall it be included in the member's accumulated contributions which constitute a part of the basic death benefit. Any balance of any such total amount remaining unpaid at the death of the member on account of which a special death benefit is payable or at the retirement of a member for industrial disability shall become due and payable forthwith and if not paid, the portion of such unpaid amount representing contributions on compensation earned in the membership applicable to the member at the time of injury resulting in death shall be deducted from the benefit otherwise payable and the system shall be discharged from any liability for any annuity or benefit with respect to any remainder of such unpaid contribution. Any such balance at the time of retirement for service or ordinary disability, or at death, with respect to which a benefit is payable under Section 21365.5 shall become due and payable forthwith, and if it is not paid the service credit included in the election shall be reduced proportionately and any prior service dependent on completion of payments eliminated for purposes of computing the allowance but not for purposes of determining entitlement to an allowance.

Notwithstanding any other provision of this section, a member who retires after January 1, 1976, before payment of the total amount which he elected to pay, may elect to pay the balance due by deductions from his retirement allowance equal to those which he authorized as payroll deductions in accordance with Section 20654. In such case service credit included in the election shall not be reduced, nor shall any prior service dependent on completion of payments be eliminated for purposes of computing the allowance. Any balance of such total amount remaining unpaid upon the death of such member shall be treated in the same manner as unpaid balances are treated if a special death benefit is payable.

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 the benefits of this act to be available to retired persons as soon as possible, this act must take effect immediately.

4812 298300 353

CHAPTER 1445

An act to amend Sections 70059.7, 73914, 74642, and 74643 of the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 70059.7 of the Government Code is amended to read:

70059.7. In Santa Barbara County, each regular official reporter shall be paid a biweekly salary which shall be seven hundred fifty-seven dollars and forty-three cents ($757.43) which salary shall include payment for services in reporting all proceedings in the superior court, before the grand jury, and before coroners' inquests.

Reporters pro tempore shall be paid at the per diem rate of 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.

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. 2. 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	283	5.7209	457 67	481.07	505 67	531.54	558 72
Chief deputy clerk	246	4.7569	380 55	400 02	420 47	441.97	464 57
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. 3. 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, six 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. 4. 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 II, three clerks II, and one clerk-typist II, each of whom shall receive a salary in accordance with Sections 74644, 74644.1, and 74644.2.

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. 6. If any provision of Chapter 1278 of the Statutes of 1975 relating to court reporters, or application thereof regarding such

persons, is enjoined, restrained, or otherwise held invalid, every provision or application of this act relating to court reporters shall be void.

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:

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 1446

An act to add Section 23428.24 to the Business and Professions Code, relating to alcoholic beverages and making an appropriation therefor.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 23428.24 is added to the Business and Professions Code, to read:

23428.24. For the purposes of this article "club" also means any bona fide nonprofit social organization which has more than 350 members and which has as the owner, lessee, or occupant thereof operated an establishment for its members and which has been in existence for more than five years and whose purpose is to foster and develop social relations among its members and to foster pride in the national origin of its members by promoting appreciation of such national origin and its contribution to the American social order.

It shall be unlawful for any club licensed pursuant to this section to make any discrimination, distinction, or restriction against any person on account of such person's color, race, religion, ancestry, national origin, sex, or age.

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 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 and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1447

An act to amend Sections 74936, 74938, 74939, 74940, and 74941 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 74936 of the Government Code is amended to read:

74936. There shall be one clerk who shall receive the salary specified in range No. 15.0.

SEC. 2. Section 74938 of the Government Code is amended to read:

74938. There shall be one marshal who shall receive the salary specified in range No 20.0

SEC. 3. Section 74939 of the Government Code is amended to read:

74939. The marshal may appoint one deputy marshal who shall receive the salary specified in range No. 16.5 and one stenographer-clerk II who shall receive the salary specified in range No. 9.0, and who shall serve as clerk to the marshal, and one typist-clerk II who shall receive the salary specified in range No. 8.0 and who shall be a deputy clerk. With the consent of the Board of Supervisors of Butte County, the marshal may appoint additional deputies as is required, which additional deputies shall receive the salary specified in range No. 16.5.

SEC. 4. Section 74940 of the Government Code is amended to read:

74940. Whenever reference is made to a range number in any section of this article, the following schedule of biweekly salaries shall apply:

Range number	A	B	C	D	E
8.0	255	267	281	296	310
8.5	261	275	288	302	319
9.0	267	281	296	310	325
9.5	275	288	302	319	334
10.0	281	296	310	325	343
10.5	288	302	319	334	351
11.0	296	310	325	343	358
11.5	302	319	334	351	370
12.0	310	325	343	358	378

12.5	319	334	351	370	386
13.0	325	343	358	378	396
13.5	334	351	370	386	406
14.0	343	358	378	398	416
14.5	351	370	386	406	426
15.0	358	378	396	416	438
15.5	370	386	406	426	448
16.0	378	396	416	438	460
16.5	386	406	426	443	470
17.0	396	416	433	460	482
17.5	406	426	448	470	492
18.0	416	438	460	482	505
18.5	426	448	470	492	517
19.0	438	460	482	505	532
19.5	448	470	492	517	544
20.0	430	482	505	532	557
20.5	470	492	517	544	570
21.0	482	505	532	557	585
21.5	492	517	544	570	599
22.0	505	532	557	585	614
22.5	517	544	570	599	630

SEC. 5. Section 74941 of the Government Code is amended to read:

74941. Subject to the provisions of Section 72001, the compensation of officers and attachés shall be governed as follows:

(a) The initial hiring rate for each position shall be at step A. If it is difficult to secure qualified personnel at such rate, or if a person of unusual qualifications is hired, the appointing authority, with the approval of the Board of Supervisors of the County of Butte, may employ such person at one of the higher salary steps provided for the position.

(b) A step advancement from step A to step B of a position may be granted following the completion of 130 days of compensated service in the position. A person may advance to steps C, D and E upon completion of successive 260-day periods of compensated service in the same position. A step advancement shall become effective on the first day of the first pay period to begin after completion of the required compensated time.

(c) The salaries of municipal court officers and attachés may, upon recommendation by the appointing authority and approval of the board of supervisors, be increased or decreased within the limits set forth in Section 74926 in order to provide compensation which is comparable to compensation received by county employees of similar qualifications and experience and holding equal or comparable positions, as said comparability is determined by the board of supervisors.

(d) Certain classifications in the Chico Municipal Court are deemed to be equivalent or related in responsibility and salary level

to certain classifications in the service of Butte County and whenever the salary of a classification in the service of Butte County is adjusted by the board of supervisors, the salary of equivalent classifications and related classifications in the Chico Municipal Court shall be adjusted an equal number of ranges on the currently effective salary schedule established by county ordinance. 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 county service, but such adjustments shall be effective only until January 1, 1978.

All class relationships shall be based on salary schedule range assignments effective July 1, 1975.

The equivalent or related classifications are as follows:

Municipal court classification	County classification
Clerk, municipal court	Senior clerical supervisor
Steno-clerk II	Steno-clerk II
Typist-clerk III	Typist-clerk III
Typist-clerk II	Typist-clerk II
Marshal	Marshal
Deputy marshal	Deputy marshal

(e) The marshal and his deputies have previously been on a flat salary in the now superseded justice court, and they shall commence their duties as marshal and deputy marshal in step A of their respective ranges.

SEC. 6. 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 1448

An act to add Section 22014.5 to the Government Code, relating to the Public Employees' Retirement System.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 22014 5 is added to the Government Code, to read:

22014.5. "Fireman" as used in this part also includes persons employed in positions described in Section 20017.9; provided, such designation is not contrary to any definition, ruling or regulation

relating to the term "fireman" issued by the federal agency for the purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 2. This act shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons employed in positions described in Section 20017.9 within the definition of "fireman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

CHAPTER 1449

An act to amend Sections 74604, 74607 and 74610 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. 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 twenty thousand dollars ($20,000). 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. 2. Section 74607 of the Government Code is amended to read:

74607. The presiding judge of the court may appoint:

(a) Four municipal court clerks IV, each of whom shall receive a monthly salary at a rate specified in range 60.1.

(b) One accounting technician, who shall receive a monthly salary at a rate specified in range 59.6.

(c) Two municipal court clerks III, each of whom shall receive a monthly salary at a rate specified in range 59.1.

(d) One account clerk, who shall receive a monthly salary at a rate specified in range 57.3.

(e) Two municipal court clerks II, each of whom shall receive a monthly salary at a rate specified in range 58.2.

(f) Nineteen municipal court clerks I, each of whom shall receive a monthly salary at a rate specified in range 56.8.

(g) One part-time municipal court clerk I, who shall receive a monthly salary at a rate specified in range 56.8.

(h) One assistant clerk-administrator, who shall receive a monthly salary at a rate specified in range 62.1.

SEC. 3. Section 74610 of the Government Code is amended to read:

74610. (a) The positions enumerated in Sections 74606 and 74607 are deemed to be comparable in job and salary level to certain positions in the classified service of San Luis Obispo County. The following table sets forth the court classifications with the comparable county classifications shown opposite thereto:

Court classification	County classification
Deputy marshal	Deputy sheriff
Municipal court clerk IV	Superior court clerk
Municipal court clerk III	Supervising clerk I
Municipal court clerk II	Senior typist-clerk
Municipal court clerk I	Intermediate typist-clerk
Accounting technician	Accounting technician
Account clerk	Account clerk

In the event that the salary for any classification which is shown above is increased by the board of supervisors, a commensurate increase shall be made in the salary for the comparable court classification. Salary adjustments made pursuant to this section shall be effective the same date as the effective date of action of the board of supervisors applicable to the respective and comparable county classifications, but shall remain effective only until January 1 of the second year following the year in which such an adjustment in salary is made.

(b) Whenever the salary of the position of municipal court clerk IV is adjusted pursuant to subdivision (a), the salary of the position of assistant clerk-administrator shall be adjusted an equivalent number of ranges or steps on the salary schedule.

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 local government entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1450

An act to add Section 11094 to the Government Code, relating to statistical analyses.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 11094 is added to the Government Code, to read:

11094. The State Controller shall, in the preparation and maintenance of any statistical analyses which concern local governmental entities, either by population, fiscal, or other bases, make a separate breakdown for any area designated as a statistical area pursuant to Section 11093. With respect to reports of the State Controller on local revenue sources other than property tax or sales tax, the Controller in making such a breakdown may waive reporting requirements for any revenue source which is collected in minimal amounts or which is distributed evenly in the entire city and may allocate such revenue on the basis of the Finance Department population estimates for the statistical area or areas.

This section shall remain in effect only until July 1, 1978, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1978, deletes or extends such date.

SEC. 2. This bill shall only become effective if Senate Bill No. 1762 of the 1975–76 session of the Legislature becomes law.

CHAPTER 1451

An act to amend Sections 73522, 73523, and 73523.1 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 73522 of the Government Code is amended to read:

73522. There shall be one clerk of each municipal court district who shall receive a biweekly salary at the rate specified in salary

range number 1159 of the salary schedule.

SEC. 2. Section 73523 of the Government Code is amended to read:

73523. The number and compensation of deputies which may be appointed in the various judicial districts are as follows:

(a) Each clerk may appoint one chief deputy clerk who shall receive a biweekly salary at the rates specified in salary range number 801 of the salary schedule.

(b) The Clerk of the Northern Judicial District may appoint five deputy clerks, grade III; the Clerk of the Central Judicial District may appoint four deputy clerks, grade III; the Clerk of the Southern Judicial District may appoint six deputy clerks, grade III, each of whom shall receive a biweekly salary at the rates specified in salary range number 679 of the salary schedule.

(c) The Clerk of the Northern Judicial District may appoint five deputy clerks, grade II; the Clerk of the Central Judicial District may appoint six deputy clerks, grade II; the Clerk of the Southern Judicial District may appoint eight deputy clerks, grade II, each of whom shall receive a biweekly salary at the rates specified in salary range number 546 of the salary schedule.

(d) The Clerk of the Northern Judicial District may appoint 26 deputy clerks, grade I; the Clerk of the Central Judicial District may appoint 20 deputy clerks, grade I; the Clerk of the Southern Judicial District may appoint 16 deputy clerks, grade I, each of whom shall receive a biweekly salary at the rates specified in salary range number 493 of the salary schedule.

(e) The Clerk of the Southern Judicial District and the Clerk of the Central Judicial District may each appoint one part-time deputy clerk, grade I, each of whom shall receive a biweekly salary at an amount not to exceed one-half of the rates specified in salary range number 493 of the salary schedule.

SEC. 3. Section 73523.1 of the Government Code is amended to read:

73523.1. Whenever a reference to a salary range number is made in this article, the following schedule of biweekly salaries shall apply:

Salary	Steps				
range number	A	B	C	D	E
493	315.20	333.60	352.80	372.80	394.40
546	349.60	369.60	390.40	412.80	436.80
679	434.40	459.20	485.60	513.60	543.20
801	512.80	542.40	572.80	606.40	640.80
1,159	741.60	784.00	829.60	876.80	927.20

SEC. 4. 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 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 the act.

CHAPTER 1452

An act to amend Sections 70044.5 and 70048 of, and to add Section 68521 to, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 68521 is added to the Government Code, to read:

68521. (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 Diego 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 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. 2. Section 70044.5 of the Government Code is amended to read:

70044.5. In San Mateo County, official reporters shall be appointed by the judges of the court pursuant to the provisions of Section 70043 and shall serve at the pleasure of the judges.

(a) The biweekly salary of each regular official reporter for the performance of duties required of each such reporter by law shall be based on a five-step salary schedule as follows:

Step A	$625.60
Step B	660.80
Step C	699.20
Step D	739.20
Step E	781.60

At the time each reporter is hired, the salary of that reporter shall be fixed in the same manner as provided for classified employees of the county under the authority of the county charter. A step advancement from step A to step B may be granted on the first day of the pay period following the completion of 26 full weeks of service in the position. A person may advance to steps C, D, and E upon completion of successive 52-week periods of service. All merit increases as provided herein shall be made at the determination of the judges of the court.

In addition to new employees, the salaries herein provided for shall be applicable to regular official reporters employed by such county on the effective date of this section and for the purpose of determining the salaries to be paid after this section becomes effective, all years of service rendered by such reporters to such county prior to the effective date of this section shall be counted in determining the salary to which they are entitled under the salary schedule above mentioned.

The per diem compensation for pro tempore reporters shall be one-tenth of step E in the biweekly salary range established for official reporters, provided, however, that that rate of per diem compensation shall be prorated on the basis of one-half day of compensation if the pro tempore reporter renders only one-half day of service.

Vacation allowances and sick leave allowances for official reporters shall be the same as provided for classified employees of the county under the authority of the county charter.

(b) If the Board of Supervisors of San Mateo County provides by ordinance or by agreement pursuant to Chapter 10 (commencing with Section 3500), Division 4, Title 1, for a rate of compensation which is higher than that provided by subdivision (a), such higher rate of compensation shall be effective at the same time and in the same manner as other rates of pay for San Mateo County employees generally. Such higher rates shall be payable by the county in the same manner and from the same funds as other salary demands against the county. Any change in compensation made pursuant to this subdivision shall be on an interim basis and shall expire on January 1 after the adjournment of the next regular session of the Legislature unless ratified or superseded by a statute enacted at such session.

(c) 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.

Each official reporter shall perform the duties required of him by law. In addition, he shall render stenographic or clerical assistance, or both, to the judge or judges of the superior court as such judge or judges may direct.

SEC. 3. Section 70048 of the Government Code is amended to read:

70048. In a county with a population of 1,300,000 and under 1,400,000, as determined by the 1970 federal census, regular official reporters shall be paid a monthly salary of one thousand eight hundred seventy-five dollars ($1,875).

Official phonographic reporters pro tempore shall be compensated at the rate of seventy-seven dollars ($77) a day, or any fractional part thereof.

Rates of compensation of all 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.

Such changes in compensation made pursuant to this section shall be on an interim basis and shall expire 90 days after the adjournment of the next regular session of the Legislature unless ratified by a statute enacted at such session.

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 as 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 Diego County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in this county in view of the submitted request for an adjustment in the compensation provided to court reporters in such county.

SEC. 5. In the event that Section 68519 of the Government Code as it relates to San Mateo County, or any provision of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, every provision of this act shall be void, and to this end, all the provisions of this act and Section 68519 of the Government Code as it relates to San Mateo County are inseverable.

SEC. 6. 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.

CHAPTER 1453

An act to amend Section 73526 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 73526 of the Government Code is amended to read:

73526. Official reporters shall be appointed by the judges of the court pursuant to the provisions of Section 72194 and shall serve at the pleasure of the judges.

(a) The biweekly salary of each regular official reporter for the performance of duties required of each such reporter by law shall be based on a five-step salary schedule as follows:

Step A	$625.60
Step B	660.80
Step C	694.20
Step D	739.20
Step E	781.60

At the time each reporter is hired, the salary of that reporter shall be fixed in the same manner as provided for classified employees of the county under the authority of the county charter. A step advancement from step A to step B may be granted on the first day of the pay period following the completion of 26 full weeks of service in the position. A person may advance to steps C, D, and E upon completion of successive 52-week periods of service. All merit increases as provided herein shall be made at the determination of the judges of the court.

The per diem compensation for pro tempore reporters shall be one-tenth of step E in the biweekly salary range established for official reporters, provided, however, that that rate of per diem compensation shall be prorated on the basis of one-half day of compensation if the pro tempore reporter renders only one-half day of service.

(b) Vacation allowances and sick leave allowances for official reporters shall be the same as provided for classified employees of the county under the authority of the county charter.

(c) 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.

Each official reporter shall perform the duties required of him by

law. In addition, he shall render stenographic or clerical assistance, or both, to the judge or judges of the municipal court as such judge or judges may direct.

SEC. 2. In the event that Section 68519 of the Government Code as it relates to San Mateo County or any provision of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, every provision of this act shall be void, and to this end, the provisions of this act and Section 68519 of the Government Code as it relates to San Mateo County are inseverable.

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 local government entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1454

An act to add Section 21390 to the Government Code, relating to the Public Employees Retirement System.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 21390 is added to the Government Code, to read:

21390. A contracting agency may by amending its contract elect to make the provisions of Section 21382.2 applicable to the local members employed by the agency.

CHAPTER 1455

An act to amend Section 69899.5 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 69899.5 of the Government Code is amended to read:

69899.5. In the County of Orange, a majority of the judges of the superior court may appoint the following officers and employees whose monthly salaries shall be:

Number of positions	Title	Salary range
1	Assistant superior court executive officer	E62
1	Administrative services assistant II—superior court	E58
1	Master calendar assistant	A51
1	Jury services supervisor	A51
1	Court accounts technician	A38
1	Executive secretary to presiding judge	A43
1	Supervising judicial stenographer	A41
2	Secretary II—judicial	A39
6	Judicial stenographer	A37
3	Court information clerk	A30
5	Juvenile court referee	80% of salary of superior court judge
2	Juvenile traffic hearing officer	A63
2	Legal research attorney	A63
1	Legal research assistant	A57
1	Supervising probate examiner	A57
2	Probate examiner	A55
1	Probate secretary	A40
1	Jury payroll clerk	A32
1	Master calendar clerk	A34
1	Juvenile court coordinator	E62
1	Systems and procedures analyst	A59

The references to a numbered salary range in this section are to the salary schedule in the salary resolution of the County of Orange.

All personnel appointed pursuant to this section shall serve at the pleasure of the majority of the judges and may at any time be removed by the majority of the judges in their discretion.

With the approval of the board of supervisors, the majority of the judges may establish such additional titles and pay rates as are required, and, with the approval of the board of supervisors, may appoint and employ such additional commissioners, officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Rates of compensation of all officers, assistants, and other employees, except those of court commissioners, may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court.

All personnel shall be entitled to such step advancement, vacation, sick leave, holiday benefits, other leaves of absence, and other benefits as may be directed by rules adopted by a majority of the judges. Where statutes require implementation by local ordinances for the extension of benefits to local officers and employees, these

may be made applicable, by rule, to such personnel.

The benefits shall also include the same lump sum payments for sick leave and vacation for such personnel when they are separted from the service as are made to county employees of such county.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of such personnel. When such rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court, the county shall furnish to the judges such services as may be required in connection with the recruitment and employment of such personnel.

All such personnel and judges shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their employment or office outside of the county.

All such personnel shall be included in the retirement system of the County of Orange, subject to the provisions of such system.

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 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.

CHAPTER 1456

An act to amend Sections 74002, 74003, 74004, and 74005 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 74002 of the Government Code is amended to read:

74002. There shall be one clerk and administrative officer for each court who shall be appointed by, and serve at the pleasure of, a majority of the judges of the court, or in the case of an equal division of the court, the senior judge of the court, and who shall receive a biweekly salary as provided by the following range numbers of Section 74005:

For the North Orange County, Central Orange County, and West Orange County Municipal Courts E 71
For the Orange County Harbor Municipal Court and South Orange County Municipal Court ..... E 69

SEC. 2. Section 74003 of the Government Code is amended to read:

74003. (a) There shall be one Marshal of the County of Orange appointed by, and serving at the pleasure of, a majority of the judges of the municipal courts in the county.

(b) A branch office of the Marshal of Orange County shall be maintained in each judicial district.

(c) In no event shall the compensation of the marshal be less than 13 ranges above that set for the position of lieutenant, marshal's office.

(d) Notwithstanding the provisions of Section 31662.6, the marshal of all municipal courts within the County of Orange who is a safety member shall be retired as of the first day of the calendar month next succeeding that in which he attains age 65.

(e) The number of positions within each job classification which shall be appointed by the marshal and the number of the salary range set forth in Section 74005 which constitutes the compensation for each job classification are shown in the table below:

Title of job classification	Applicable salary range number	Number of positions authorized
Marshal	E 77	1
Captain, marshal's office	E 70	2
Lieutenant, marshal's office	E 64	4
Sergeant, marshal's office	A 61	12
Deputy marshal II	A 53	34
Deputy marshal I	A 51	59
Chief clerk II, marshal's office	A 44	3
Chief clerk I, marshal's office	A 42	2
Secretary II	A 40	1
Clerk III, marshal's office	A 36	6
Clerk II, marshal's office	A 32	14
Clerk I, marshal's office	A 30	17
Administrative services assistant II	E 58	1
Investigator I, marshal's office	A 56	10
Radio dispatcher	A 44	2
Teletype operator	A 32	1

SEC. 3. Section 74004 of the Government Code is amended to read:

74004. (a) The number of positions within each job classification which may be filled by appointment by the clerk and administrative

officer, respectively, of each such court, and the number of the salary range set forth in Section 74005 which constitutes the compensation for each job classification, are shown in the table below, in which the various municipal courts are designated by column headings from left to right in the same order as that in which their judicial districts are named in Section 74000:

Title of job classification	Applicable salary range number	Number of positions authorized in each court				
		NOC	COC	WOC	OCH	SOC
Appointed by the clerk and administrative officer:						
Chief deputy clerk II, municipal court	E61	1	1	1	0	0
Chief deputy clerk I, municipal court	E59	0	0	0	1	1
Division head II, municipal court	A52	4	4	4	0	0
Division head I, municipal court	A50	0	0	0	4	1
Accounting division head	A44	1	1	1	1	0
Courtroom clerk, municipal court	A48	12	12	13	6	3
Deputy clerk V, municipal court	A44	2	2	2	1	1
Deputy clerk IV, municipal court	A38	1	1	0	0	1
Deputy clerk III, municipal court	A36	7	7	7	5	5
Deputy clerk II, municipal court	A32	14	14	16	15	9
Deputy clerk I, municipal court	A30	31	35	32	21	16
Legal stenographer I	A36	2	2	2	1	1
Secretary II	A40	1	1	1	1	1
Systems and procedures analyst II	A59	1	1	1	1	0
Supervising detention release officer	A60	0	1	0	0	0
Detention release officer	A54	0	8	0	0	0
Data input operator	A32 S/3	9	13	13	0	2
Interpreter	A39	1	1	1	1	0

Supervising clerk I	A40	2	2	1	1	0
Assistant courtroom clerk, municipal court	A36	3	4	3	4	0

(b) The Legislature finds and declares that the matter of appointing, promoting, demoting, and dismissing persons in positions with the municipal courts and all other aspects of the personnel management of municipal courts of Orange County is one for local concern. It further finds and declares that wherever possible such personnel management shall grant to persons in positions with the municipal courts equality of treatment with persons in positions with the County of Orange who are performing similar duties and who possess similar qualifications.

(c) To achieve the legislative intent expressed in subdivisions (a) and (b), the municipal courts of Orange County may create a personnel committee consisting of five judges selected one from each court by a majority vote of the judges of the respective courts, or where there is an equal division of the judges of a court, by the senior judge of that court. The personnel committee may adopt rules and regulations providing for a personnel system for all municipal courts of Orange County which shall provide for equal treatment concerning methods and conditions of employment for employees and attachés of the several courts and the marshal's office and which shall provide equal treatment for such employees as is provided for Orange County employees generally. In so providing for a personnel system, the judges may adopt all or any part of the personnel and salary resolution of the County of Orange.

(d) With the approval of the board of supervisors, the personnel system adopted by the personnel committee and made applicable to all the municipal courts of Orange County may be administered by the County of Orange through its personnel department. The board of supervisors may withdraw its approval at any time.

(e) If an increase in the business of the court or any other emergency requires a greater number of attachés or employees for the prompt and faithful discharge of the business of the court than the number expressly provided in this article or requires the performance of duties of positions in a class not expressly provided in this article, a majority of the judges of any of the courts, with the approval of the board of supervisors, may establish additional titles, pay rates, and positions as they deem necessary for the performance of the duties and exercise of the powers conferred by law upon the courts. Rates of compensation of all officers, attachés, and employees may be adjusted by joint action and approval of the board of supervisors and a majority of the municipal court judges of Orange County. The establishment of additional titles, positions, and pay rates and changes in compensation made pursuant to this subdivision

shall be on an interim basis and shall expire on January 1 of the second year following the year in which such establishment or change is made. The provisions of this section are directory only and are not intended to affect the application of Section 72150.

SEC. 4. Section 74005 of the Government Code is amended to read:

74005. The schedule of biweekly salary ranges referred to in Sections 74002, 74003, and 74004 are those ranges set forth in the 1976–77 Personnel and Salary Resolution adopted by the Orange County Board of Supervisors.

Notwithstanding any other provisions of law, the salaries of municipal court officers, attachés, and employees may upon the joint approval of the personnel committee and the board of supervisors be increased or decreased in order to provide compensation that is comparable to county employees of similar qualifications and experience holding equal or comparable positions in the Orange County classified service as the comparability is determined jointly by the personnel committee and the board of supervisors, except that any such increase or decrease shall be effective only until January 1 of the second year following the year in which such increase or decrease is made.

In the event that the board of supervisors adopts a revised salary schedule for county employees, the board shall confer with the personnel committee, and if both are agreed that the new schedule shall apply also to the officers, attachés, and employees of the municipal courts and marshal's office, the revised salary schedule shall apply equally to the officers, attachés, and employees of municipal courts and marshal's office in the same manner and date as for county employees, except that any such salary adjustment shall only be effective until January 1 of the second year following the year in which such adjustment is made.

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 governmental entity or entities which desire legislative authority to act to carry out the program specified in this act.

CHAPTER 1457

An act to amend Section 8 of, and to add Sections 8.1 and 10.2 to, the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to county water authorities, and making an appropriation therefor..

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 8 of the County Water Authority Act (Chapter 545 of the Statutes of 1943) is amended to read:

Sec. 8. An authority may incur indebtedness by contract other than by voting bonds or expenditure of bond proceeds up to a total amount equal to one-tenth of 1 percent of the assessed valuation of property taxable for authority purposes by a vote of three-fourths or more of the aggregate number of votes of all members of the board of directors. Any proposal to incur an indebtedness in excess of an amount equal to one-tenth of 1 percent of the assessed valuation of property taxable for authority purposes by contract other than by voting bonds or expenditure of bond proceeds, and any proposal to purchase, lease, or otherwise acquire rights, privileges, or services by contract, the compensation for which shall be payable over a period of time exceeding 20 years, shall be submitted to the qualified electors of the authority for their approval and shall be voted upon at an election wherein proceedings shall be had, insofar as applicable, in the manner provided in this act for the authorization and issuance of the bonds of the authority, except that the vote of a majority of the electors voting upon the proposition shall be sufficient to authorize the incurring of such indebtedness. Notice of the election herein provided for shall contain, in addition to the information required in the case of bond elections, a statement of the maximum amount of money to be paid under said contract, exclusive of penalties and interest, for what purposes the money is to be expended, and the property, improvements, works, rights, privileges or services to be acquired thereby. The ballots at such election shall contain a brief statement of the general purposes of said contract and the amount of the obligation to be assumed as aforesaid, with the words "Contract—Yes" and "Contract—No." The board of directors may submit such contract or proposed contract to the superior court of the county wherein the authority is located to determine the validity thereof and the legal authority of the board to enter into such contract, whereupon the same proceedings shall be held as are herein provided in the case of the judicial determination of the validity of bonds issued pursuant to this act, and with like effect.

SEC. 2. Section 8.1 is added to the County Water Authority Act (Chapter 545 of the Statutes of 1943), to read:

Sec. 8.1. (a) Whenever the board of directors of any authority incorporated under this act by ordinance adopted by a vote of three-fourths or more of the aggregate number of votes of all members of the board of directors finds and determines that any part of the works of the authority has been damaged or demolished by reason of fire, flood, earthquake, sabotage, act of God or the public enemy, that the cost of repairing or replacing such works so damaged or demolished will be too great to be paid out of the ordinary annual income and revenue of the authority, and that the public interest requires the incurring of indebtedness for the purpose of providing

4 1884 299 165 454

moneys for the repair or replacement of such works, the board of directors may authorize the incurring of such indebtedness by the issuance and sale of bonds or other evidence of indebtedness and shall determine the manner in which such indebtedness shall be incurred and evidenced.

(b) The total indebtedness incurred pursuant to this section shall not exceed one-half of 1 percent of the assessed valuation of the property taxable for authority purposes, and the term of any such indebtedness shall not exceed 12 years.

(c) The bonds or other evidence of indebtedness authorized to be issued pursuant to this section shall bear interest at a rate or rates specified therein, which rate or rates shall not be in excess of 8 percent per annum, and shall be in such form, bear such signatures, and be subject to such provisions as may be determined by the board of directors. The board of directors may provide for the call and redemption of bonds or other evidence of indebtedness before maturity at such times and at such prices as it may determine. A bond or other evidence of indebtedness shall not be subject to call or redemption prior to maturity unless it contains a recital to that effect.

(d) The bonds or other evidence of indebtedness shall be sold at not less than par and accrued interest in the manner provided for the issuance of other bonds of the authority in subdivision (g) of Section 7, provided that if no bids are received, or if the board determines the bids received are not satisfactory in the opinion of the board, the board may reject all bids and either readvertise or sell the bonds or other evidence of indebtedness at private sale.

(e) The proceeds of any borrowing pursuant to this section, other than accrued interest, shall be applied solely to the purpose specified in the ordinance authorizing the incurring of such indebtedness or to the retirement of the principal of the obligation issued pursuant to such ordinance. Any accrued interest received shall be applied to payment of interest on such indebtedness.

(f) The provisions of subdivisions (i), (j), and (*l*) of Section 7, which are applicable to other bonds of the authority, shall apply to bonds or evidence of indebtedness incurred pursuant to this section.

SEC. 3. Section 10.2 is added to the County Water Authority Act, (Chapter 545 of the Statutes of 1943), to read:

Sec. 10.2. (a) Notwithstanding any other provisions of this act, territory within a federal military reservation may be annexed to any county water authority organized hereunder as a single member of an authority in the manner provided in this section. As used in this section, "federal military reservation" or "military reservation" means a single federal military reservation or separate but contiguous federal military reservations which are jointly annexed to a county water authority as a single member agency of an authority.

(b) Proceedings for the annexation of a military reservation shall be initiated by the adoption by the board of directors of an authority of a resolution proposing annexation of a military reservation to an authority as a member of an authority.

(c) The resolution proposing the annexation may provide that the annexation shall include one or more separate areas, which may be separately identified for assessing and tax collecting purposes, and that each such area may be subject to one or more of the following terms and conditions:

(1) The fixing and establishment of priorities for the use of, or right to use, water, or capacity rights in any public improvement or facilities, and the determination of, or limitation on, the quantity of, the purposes for which, and the places where, water may be delivered by the authority to the military reservation for military purposes and uses incidental thereto, as well as for nonmilitary purposes.

(2) The levying by the authority of special taxes upon any private leasehold, possessory interest or other taxable property within the territory annexed, and the imposition and collection of special fees or charges prior to such annexation.

(3) Should portions of any area annexed hereunder be subsequently made available for nonmilitary purposes not in existence at the time of the annexation of such area, the board of directors of the authority may impose new terms and conditions for any subsequent service of water, directly or indirectly, by the authority to such area, including the separation of such an area for assessing and tax collecting purposes and the levying by the authority of special taxes on such portions.

(4) The effective date of the annexation.

(5) Any other matters necessary or incidental to any of the foregoing.

(d) A certified copy of the resolution proposing annexation shall be sent to the official in authority over the military reservation. If the military reservation consents in writing to the annexation and to the terms and conditions established by the board of directors, the board may, by resolution, order the annexation to the authority of the territory situated within the military reservation, subject to said terms and conditions.

(e) A certificate of proceedings taken hereunder shall be made by the secretary of the authority and filed with the Secretary of State. Upon the filing in his office of the certificate of proceedings, the Secretary of State shall, within 10 days, issue a certificate reciting the filing of such papers in his office and the annexation of the territory to the authority. The Secretary of State shall transmit the original of said certificate to the secretary of the authority and shall forward a certified copy thereof to the county clerk of each county in which the authority is situated.

(f) Upon the filing of the certificate of proceedings with the Secretary of State, or upon the effective date of the annexation provided for in the terms and conditions, whichever is later, the territory within the military reservation shall become and be an integral part of the authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of said authority,

including the payment of bonds and other obligations of the authority at the time authorized or outstanding, and the board of directors of the authority shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

(g) On and after the effective date of the annexation, the military reservation shall be a separate unit member of the authority and shall be entitled to one representative on the board of directors of the authority. Such representative shall be designated and appointed by the official in authority over the military reservation, shall hold office for a term of six years or until his successor is appointed and qualified, and may be recalled by such official. As a member of the board of directors, the representative of the military reservation shall be entitled to cast one vote on all questions, orders, resolutions and ordinances coming before the board notwithstanding the assessed valuation of property taxable for authority purposes within the military reservation.

(h) The transfer of ownership of the fee title of a military reservation, or of any portion thereof, to nonmilitary ownership after annexation to the authority pursuant to this section shall result in the automatic exclusion from the authority of the territory transferred to such ownership.

(i) If a county water authority is a member public agency of a metropolitan water district organized under the Metropolitan Water District Act (Chapter 200 of the Statutes of 1969), such metropolitan water district may impose any or all of the terms and conditions that may be imposed by a county water authority pursuant to subdivisions (a) through (h) of this section in any resolution fixing the terms and conditions for the concurrent annexation of territory in a military reservation.

CHAPTER 1458

An act to add Sections 68522, 70045.9, and 70054.1 to, and to repeal Section 70045.9 of, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 68522 is added to the Government Code, to read:

68522. (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 Shasta County. Such records shall be inspected and audited by the Judicial Council.

4 2012 299215 464

(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.

(5) Such other information as the Judicial Council may require.

SEC. 2. Section 70045.9 of the Government Code is repealed.

SEC. 3. Section 70045.9 is added to the Government Code, to read:

70045.9. Notwithstanding any other provision of law, the provisions of this section shall apply to the official court reporters in Shasta County:

(a) The regular full-time official court reporters shall perform the following duties:

(1) Report all criminal proceedings in superior court.

(2) Report all juvenile proceedings other than those heard by juvenile court referee or traffic hearing officer.

(3) Report all civil jury trials in superior court, unless the court determines such is not required.

(4) Report any other proceeding in the superior court at the request of the judge of the superior court.

(5) Report any superior court proceeding when a party requests a court reporter in accordance with the rules of court.

(6) Report all criminal investigations of the grand jury when requested by the foreman, or by the district attorney.

(7) Report the preliminary examination of those accused of crime before magistrates or municipal court judges within Shasta County, or before both.

(8) Report coroner's inquests when requested by the coroner.

(9) Report hearings of the Board of Equalization of the County of Shasta as requested by that board.

(10) Other reporting or related services as directed by the judges of the superior court.

(11) When not occupied with the above duties, and upon request of the board of supervisors and approval of the presiding judge of the superior court, he shall report matters before the board of supervisors.

(b) Each regular full-time court reporter shall be paid a monthly salary of one thousand four hundred seventy dollars ($1,470), unless the Board of Supervisors of Shasta County by ordinance provides for

compensation in excess of that amount, in which event the amount set by ordinance shall apply. Such salary is for compensation for reporting services set forth under subdivision (a) of this section. For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter.

The regular full-time official court reporters shall be entitled to the same privileges with respect to retirement, vacation (upon approval of judge to whom assigned), sick leave, and group insurance, which either now or hereafter may be provided by ordinance to other comparable employees of the County of Shasta.

(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts may require in order that the judicial business of the court may be carried on without delay. In the event the board of supervisors has entered into a contract for supplemental reporter services with a qualified person or persons first approved by the presiding judge of the superior court, such person or persons shall be appointed as reporter pro tempore; provided, that if such person or persons are not reasonably available, the judge may appoint any qualified person. Notwithstanding other provisions of this section, when an assignment of a pro tempore reporter is made to proceedings in the superior court, the assignment shall be deemed to run to the completion of the proceeding.

Reporters pro tempore shall be paid in accordance with the contract with the board of supervisors or, in absence thereof, with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941) of this chapter. Such per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.

SEC. 4. Section 70054.1 is added to the Government Code, to read:

70054.1. In Shasta County the fee required by Section 70053 shall be ten dollars ($10), provided that in any civil case lasting longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged by the county to the parties for the services of an official reporter for the sixth and each succeeding day thereafter a reporter is required.

All fees paid under this section shall be taxed as costs.

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 as 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 Shasta County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in this county in view of the submitted request for an adjustment in the compensation provided to court reporters in such county.

SEC. 6. If any provision of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of this act shall be void, and to this end the provisions of this act are inseverable.

SEC. 7. 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.

CHAPTER 1459

An act to amend Section 990.8 of the Government Code, relating to cities.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 990.8 of the Government Code is amended to read:

990.8. Two or more local public entities, by a joint powers agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, may provide insurance authorized by this part or for any other purpose by any one or more of the methods specified in Section 990.4.

Two or more local public entities having the same governing board may be coinsured under a master policy and the total premium may be prorated among such entities.

The pooling of self-insured claims or losses among entities as authorized in subdivision (a) of Section 990.4 shall not be considered insurance nor be subject to regulation under the Insurance Code.

CHAPTER 1460

An act to amend Sections 69948, 70046.2, 73683, 73684, and 73691 of, and to add Sections 68525 and 73696 to, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 68525 is added to the Government Code, to read:

68525. (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 Madera 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 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. 2. Section 69948 of the Government Code is amended to read:

69948. (a) The fee for reporting testimony and proceedings in contested cases is fifty-five dollars ($55) a day, or any fractional part thereof.

(b) In San Joaquin County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(c) In Madera County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) a day, or any fractional part thereof.

SEC. 3. Section 70046.2 of the Government Code is amended to read:

70046.2. In Fresno County, each reporter shall be paid an annual salary established according to the following salary schedule:

Step 1. $16,462
Step 2. $17,281

Step 3. $18,155
Step 4. $19,055.

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall advance one step annually upon the anniversary date of the employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court.

Each pro tempore reporter shall be paid seventy dollars ($70) per day for each of the days the reporter actually is on duty under order of the court.

In addition to the salary herein provided, each regularly employed reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

In such county the fee required by Section 70053 shall be eleven dollars and fifty cents ($11.50).

SEC. 4. Section 73683 of the Government Code is amended to read:

73683. (a) The clerk may appoint the following court personnel who shall receive a salary at the range indicated as set forth in Section 73684:

(1) Three chief deputy clerks at salary range 426.
(2) Eight court clerks at salary range 386.
(3) Seven deputy clerks II at salary range 386.
(4) One calendar clerk at salary range 386.
(5) Four deputy clerks I at salary range 301.
(6) One secretary at salary range 368.
(7) One stenographer-secretary at salary range 335.
(8) Two stenographers II at salary range 279.
(9) Two stenographers I at salary range 229.
(10) One supervising data entry operator at salary range 327.
(11) Four data entry operators II at salary range 264.
(12) Four data entry operators I at salary range 207.
(13) Twenty-two typist-clerks II at salary range 247.
(14) Twenty-two typist-clerks I at salary range 207.

(b) The clerk may appoint any combination of stenographers and secretaries described in paragraphs (6), (7), (8), and (9) of subdivision (a) not to exceed a total of two, may appoint any combination of typists described in paragraphs (13) and (14) of subdivision (a) not to exceed a total of 22, and may appoint any combination of data entry operators described in paragraphs (11)

and (12) of subdivision (a) not to exceed a total of four.

SEC. 5. 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	426	447	469	492	517	–
Court clerk	386	386	405	425	446	468	–
Deputy clerk II	386	386	405	425	446	468	–
Calendar clerk	386	386	405	425	446	468	–
Deputy clerk I	301	301	316	332	349	366	–
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 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. 6. Section 73691 of the Government Code is amended to read:

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

Step 1. $16,462
Step 2. $17,281
Step 3. $18,155
Step 4. $19,055

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall be advanced one step annually upon the anniversary date of such employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below

that step will move to the higher step at the discretion of the judges of the court. Each such reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

SEC. 7. Section 73696 is added to the Government Code, to read:

73696. In order to equalize the compensation of court reporters of the municipal and superior court with compensation paid to other county employees, upon recommendation of the judges of either the municipal or superior courts, and with approval of the Board of Supervisors of the County of Fresno, the court reporters of such courts may be paid a compensation not exceeding 25 percent of the amounts provided for in Section 70046.2 and 73691. Such increases may be made operative at the same time as the higher compensation becomes operative for other positions within the County of Fresno. Any pay increase authorized by this section shall only be effective until January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 8. 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 as 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 Madera County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in this county in view of the submitted request for an adjustment in the compensation provided to court reporters in such county.

SEC. 9. In the event that Section 68513 of the Government Code as it relates to Fresno County or Sections 3, 4, 5, 6, or 7 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, Sections 3, 4, 5, 6, and 7 of this act shall be void, and to this end, the provisions of this act and Section 68513 of the Government Code as it relates to Fresno County are inseverable.

SEC. 10. In the event that Sections 1, 2 or 8 of this act relating to Madera County or any application thereof, is enjoined, restrained, or otherwise held invalid, Sections 1, 2 and 8 of this act shall be void, and to this end, the provisions of this act are inseverable.

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 local government entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1461

An act to amend Section 4882 of the Business and Professions Code, relating to veterinary medicine.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 4882 of the Business and Professions Code is amended to read:

4882. The board may revoke or suspend a certificate for any of the following causes:

(a) The employment of fraud, misrepresentation or deception in obtaining such license.

(b) Conviction of a crime involving moral turpitude or conviction of a felony, in which case the record of such conviction shall be conclusive evidence.

(c) Chronic inebriety or habitual use of drugs.

(d) For having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

(e) Violation or attempting to violate, directly or indirectly, any of the provisions of this chapter.

(f) The revocation by a sister state or territory of a license or certificate by virtue of which one is licensed to practice veterinary medicine in that state or territory.

(g) Conviction of or cash compromise of a charge or violation of the Harrison Act, regulating narcotics, in which case the record of such conviction or compromise, as the case may be, shall be conclusive evidence.

(h) Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests.

(i) Employment of anyone but a veterinarian licensed in the State of California to demonstrate the use of biologics in the treatment of animals.

(j) False or misleading advertising having for its purpose or intent deception or fraud.

(k) Any act or omission with knowledge thereof which reflects unfavorably on the profession of veterinary medicine.

(*l*) Conviction on a charge of cruelty to animals.

(m) Failure to keep one's premises and all equipment therein in a clean and sanitary condition.

(n) Fraud, deception, or incompetence in the practice of veterinary medicine.

CHAPTER 1462

An act to amend Section 25100 of the Corporations Code, and to add Section 1280.7 to the Insurance Code, relating to reciprocal insurers, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the

01898 299385 498

Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any corporation engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any shares, investment certificates or borrower's membership certificates (as defined in the Savings and Loan Association Law) issued by a savings and loan association holding a license then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised under the laws of this state.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of

property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal; except such promissory notes offered to the public in amounts of less than five thousand dollars ($5,000) in the aggregate to any one purchaser.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Agricultural Code.

(n) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, he may in his discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner to post a bond.

(2) The commissioner may, in his discretion, (A) make such public or private investigations within or outside of this state as he deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of such Section 1280.7, and (B) publish information concerning the violation of such Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other

documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner, or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after validly claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(o) Any beneficial interest in a retirement system as defined in subdivision (a) of Section 28002.

(p) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of an exchange shall be made by the commissioner upon the written request of the exchange if he finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with a corresponding requirement that such securities not be largely held

in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may by rule or order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(q) A promissory note secured by a lien on real property, which is not one of a series of notes secured by interests in the same real property.

SEC. 2. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any

certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any corporation engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any shares, investment certificates or borrower's membership certificates (as defined in the Savings and Loan Association Law) issued by a savings and loan association holding a license then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised under the laws of this state.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when he finds that such qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Agricultural Code.

(n) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.9 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in

California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(o) Any beneficial interest in a retirement system as defined in subdivision (a) of Section 28002.

(p) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of an exchange shall be made by the commissioner upon the written request of the exchange if he finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with a corresponding requirement that such securities not be largely held in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less

than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part I of Division 3 of Title 2 of the Government Code, may by rule or order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(q) A promissory note secured by a lien on real property, which is not one of a series of notes secured by interests in the same real property.

SEC. 3. Section 1280.7 is added to the Insurance Code, to read:

1280.7. This chapter and the other provisions of this code shall not apply to or affect unincorporated interindemnity or reciprocal or interinsurance contracts between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code whose members consist solely of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration, provided that, in connection with such interindemnity, reciprocal, or interinsurance contracts all of the following conditions are met:

(a) Each participating member shall enter into and, concurrently therewith, receive an executed copy of a trust agreement, which shall govern the collection and disposition of all funds of the interindemnity arrangement.

The trust agreement shall, as a minimum, contain provision for all the following matters:

(1) An initial trust corpus of not less than ten million dollars ($10,000,000), which corpus shall be a trust fund to secure enforcement of the interindemnity arrangement. The average initial contribution to such corpus shall be not less than twenty thousand dollars ($20,000) per member participating in the interindemnity arrangement. No such interindemnity arrangement shall become operative until the requisite minimum reserve trust fund has been established by such participating members.

(2) The reserve trust fund created by such trust agreement shall be administered by a board of trustees of three or more members, all of whom shall be physicians and surgeons licensed in California, participating members in the interindemnity arrangement, and elected biennially or more frequently by at least a majority of all members participating in the interindemnity arrangement.

(3) The board of trustees shall be the custodian of all funds of the interindemnity arrangement, and all such funds shall be deposited in such bank or banks and savings and loan associations in California as the board may designate, and each such account shall require two or more signatories for withdrawal of funds. The authorized signatories shall be appointed by the board and shall be physicians and surgeons licensed in California and participating members in the interindemnity arrangement Each signatory on such accounts shall maintain, at all times while empowered to draw on such funds, for the benefit of the interindemnity arrangement, a bond against loss suffered through embezzlement, mysterious disappearance, holdup or burglary or other loss issued by a bonding company licensed to do business in California in a penal sum of not less than one hundred thousand dollars ($100,000).

(4) All funds held in trust which are in excess of current financial needs shall be invested and reinvested from time to time, under the direction of the board of trustees, in eligible securities, as defined in Section 16430 of the Government Code, or in certificates of deposits or time deposits issued by banks and savings and loan associations in California duly insured by instrumentalities of the United States government.

(5) The income earned on the corpus of the trust fund shall be the source for the payment of the claims, costs, judgments, settlements, and costs of administration contemplated by such interindemnity arrangement, and to the extent such income is insufficient for such purposes, the board of trustees shall have the power and authority to assess participating members for all amounts necessary to meet the obligations of such interindemnity arrangement in accordance with the terms thereof and any such assessment levied against a member shall be the personal obligation of such member. Any person who obtains a final judgment of recovery for medical malpractice against a member of such interindemnity arrangement shall have, in addition to any other remedy, the right to assert directly all rights to indemnification which the judgment debtor has under the interindemnity arrangement. Such final judgment shall be a lien on the reserve trust fund to secure payment of such judgment, limited to the extent of the judgment debtor's rights to indemnification.

(6) Each participating member shall be covered by such interindemnity arrangement for not less than one million dollars ($1,000,000) for each occurrence of professional negligence, with the terms and conditions of such coverage to be specified in the trust agreement, except that such interindemnity arrangement may

provide participating members with less than one million dollars ($1,000,000) of such coverage if the interindemnity arrangement obtains for the benefit of such members reinsurance of excess limits coverage in an amount which when added to the coverage provided by such interindemnity arrangement would equal not less than one million dollars ($1,000,000) for each occurrence of professional negligence.

(7) Withdrawal of all, or any portion of, the corpus of the reserve trust fund shall be upon the written authorization signed by at least two-thirds of the members of the board of trustees.

(8) The board of trustees shall cause both of the following to be furnished to each member participating in such interindemnity arrangement, and to be filed with the Commissioner of Corporations:

(A) Within 90 days after the end of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of such year, a statement of the revenue and expenditures of the interindemnity arrangement, and a statement of the changes in corpus of the reserve trust for such year, in each case accompanied by a certificate signed by a firm of independent certified public accountants selected by the board of trustees indicating that such firm has conducted an audit of such statements in accordance with generally accepted auditing standards and indicating the results of such audit.

(B) Within 45 days after the end of each of the first three quarterly periods of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of such quarterly period, a statement of the revenue and expenditures of the interindemnity arrangement and a statement of the changes in corpus of the reserve trust for such period, in each case accompanied by a certificate signed by a majority of the members of the board of trustees to the effect that such statements were prepared from the official books and records of the interindemnity arrangement.

(C) In addition to the statements required to be filed pursuant to this paragraph, the board of trustees shall annually file with the Commissioner of Corporations an authorization for disclosure to the commissioner of all financial records pertaining to the interindemnity arrangement. For the purpose of this clause, the authorization for disclosure shall also include the financial records of any association, partnership, or corporation that has management or control of the funds or the operation of the interindemnity arrangement.

(9) The trust agreement shall also provide for all the following:

(A) In the event a participating member who is in full compliance with the trust agreement dies, the initial contribution made by the decedent shall be returned to such member's estate or designated beneficiary; the indemnity coverage shall continue for the benefit of the decedent's estate in respect of occurrences during the time the decedent was a participating member; and neither the person receiving the repayment of the initial contribution nor the

decedent's estate shall be responsible for any assessments levied following the death of the member.

(B) A participating member who is then in full compliance with the trust agreement and who has reached the age of 65 and who has retired completely from the practice of medicine may elect to retire from the interindemnity arrangement, in which case such member shall not be responsible for assessments levied following the date notice of retirement is given to the trust. Following such retirement, the indemnity coverage shall continue for the benefit of such member in respect of occurrences prior to the time such member retired from the interindemnity arrangement. Such retired member's initial contribution shall be repaid 10 years from the date the notice of retirement is received by the trust, or such earlier date as specified in the trust agreement.

(C) During any period in which a participating member, who is then in full compliance with the trust agreement, has, in the judgment of the board of trustees, become unable to perform any and every duty of his or her regular professional occupation, the indemnity coverage shall continue for the benefit of such member and such member shall not be responsible for assessments levied during such period.

(D) In the event a participating member fails to pay any assessment when the same is due, the board of trustees may terminate such person's membership status if such failure to pay is not cured within 30 days from the date the assessment was due. Upon such termination the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following such termination.

(E) In the event a participating member fails to comply with any provision of the trust agreement (other than a failure to pay assessments when due), the board of trustees may terminate such person's membership status if such failure to comply is not cured within 60 days from the date such person is notified of the failure; provided that before such membership status may be terminated such person shall be given the right to call for a hearing before the board of trustees (to be held before the expiration of such 60-day period), at which hearing such person shall be given the opportunity to demonstrate to the board of trustees that no failure to comply has occurred or, if it has occurred, that it has been cured. Upon such termination, the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences

prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following such termination.

(F) A participating member who is then in full compliance with the trust agreement may elect voluntarily to terminate his or her membership in the interindemnity arrangement. Upon such voluntary termination, such person may further elect to cease being responsible for future assessments, or to continue to pay such assessments until such time as such person's initial contribution is repaid. In the event such person elects to cease being responsible for future assessments, the indemnity coverage shall thereupon terminate and such person shall either be responsible for his or her own exposure for acts committed while a participating member in the interindemnity arrangement, or he or she may request the interindemnity arrangement to purchase or provide, at the cost of such person, coverage for such exposure. The initial contribution of such person shall be repaid on the 10th anniversary of the date such contribution was made. In the event such person elects to continue to be responsible for assessments, the indemnity coverage shall continue in respect of occurrences prior to the date of such voluntary termination, and the initial contribution of such person shall be repaid at such time as the board of trustees is satisfied that (i) there are no claims pending against such person in respect of occurrences during the time such person was a participating member, and (ii) the statute of limitations has run on all claims which might be asserted against such person in respect of occurrences during such time. In no event shall such repayment be made earlier than the 10th anniversary of the date such contribution was made.

(G) The board of trustees shall have the right to terminate the membership of a participating member where the board of trustees determines that such termination is in the best interests of the interindemnity arrangement even though such person has complied with all of the provisions of the trust agreement. Such a termination may be effected only if at least two-thirds of the members of the board of trustees indicate in writing their decision so to terminate. If the board of trustees proposes so to terminate a member, such member shall have the right to call a special meeting of all participating members for the purpose of voting on whether or not such member shall be so terminated. Such member shall not be so terminated if at least two-thirds of the participating members present indicate that such member should not be so terminated. In the event a member is so terminated, such person may elect either: (i) to request the return of his or her initial contribution, in which case the same shall be repaid and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the

interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 30 days to enable such person to assume his or her own defense; or (ii) to release all rights to the return of such initial contribution, in which case the indemnity coverage shall continue for the benefit of such member in respect of occurrences during the time such person was a participating member and such person shall have no responsibility for assessments levied following such termination.

(10) Each member participating in such interindemnity arrangement shall have the right of access to, and the inspection of, the books and records of the interindemnity arrangement, which rights shall be similar to the corporate shareholders pursuant to Section 3003 of the Corporations Code, or, commencing January 1, 1977, Sections 1600 to 1605, inclusive, of the Corporations Code.

(11) There shall be a meeting of all members participating in the interindemnity arrangement, at least annually, after not less than 10 days' written notice has been given, at a location reasonably convenient to such participating members and on a date which is within a reasonable period of time following the distribution of the annual financial statements.

(12) The interindemnity arrangement, and the reserve trust fund incident thereto, shall be subject to termination at any time by the vote or written consent of not less than three-fourths of the participating members.

(b) The board of trustees shall cause to be recorded with the office of the county recorder of the county of the principal place of business of the interindemnity arrangement within 90 days following the end of each fiscal year, a written statement, executed by a majority of the board of trustees under penalty of perjury, reciting that each member participating in such interindemnity arrangement was mailed a copy of the annual financial statement and quarterly audit certificates by first-class mail, postage prepaid, required pursuant to paragraph (8) of subdivision (a).

(c) Each person solicited to become a participating member in such an interindemnity arrangement shall receive in writing, at least 48 hours prior to the execution by the prospective participating member of the trust agreement, and at least 48 hours prior to the payment by such prospective participating member of any consideration in connection with such interindemnity arrangements, the following information:

(1) A copy of the articles of incorporation and bylaws of the cooperative corporation and a copy of the form of trust agreement to be executed by such prospective participating member.

(2) A disclosure statement regarding the interindemnity arrangement. The disclosure statement shall contain on the first or cover page a legend in boldface type reading substantially as follows:

"THE INTERINDEMNITY ARRANGEMENT CONTEMPLATED HEREIN PROVIDES THAT PARTICIPATING MEMBERS HAVE UNLIMITED PER-

SONAL LIABILITY FOR ASSESSMENTS WHICH MAY BE LEVIED TO PAY FOR THE PROFESSIONAL NEGLIGENCE LIABILITIES COVERED BY THIS ARRANGEMENT. NO ASSURANCES CAN BE GIVEN REGARDING THE AMOUNT OR FREQUENCY OF ASSESSMENTS WHICH MAY BE SO LEVIED, OR THAT ALL PARTICIPATING MEMBERS WILL MAKE TIMELY PAYMENT OF THEIR ASSESSMENTS TO COVER THE PROFESSIONAL NEGLIGENCE LIABILITY OF A PARTICIPATING MEMBER."

(3) The disclosure statement shall further contain all of the following information:

(A) The amount, nature and terms and conditions of the professional negligence coverage available under the interindemnity arrangement.

(B) The amount of the initial contribution required of each participating member and a statement of the minimum number of members and aggregate contributions required for the interindemnity arrangement to commence.

(C) The names, addresses and professional experience of each member of the board of trustees.

(D) The requirements for admission as a participating member.

(E) A statement of the services to be provided under the interindemnity arrangement to each participating member.

(F) A statement regarding the obligation of each member to pay assessments and the consequences for failure to do so.

(G) A statement of the rights and obligations of a participating member in the event such member dies, retires, becomes disabled or terminates participation for any reason, or the interindemnity arrangement terminates for any reason.

(H) A statement regarding the claims administration services to be provided, indicating whether these services will be delegated to others pursuant to a contractual arrangement.

(I) A statement of the voting rights of the members and the circumstances under which participation of such a member may be terminated and under which the interindemnity arrangement may be terminated.

(J) If any statement of estimated or projected financial information for the interindemnity arrangement is used, a statement of such estimation or projection and a summary of the data and assumptions upon which it is based.

(4) A list with the names and addresses of all then current participating members of the interindemnity arrangement.

(d) No person shall receive, or be entitled to receive, any payment, bonus, salary, income, compensation or other benefit whatsoever, either from the reserve trust fund or the income therefrom or from any other funds of the interindemnity arrangement or the members thereof based on the number of participating members, or the amount of the reserve trust fund or other funds of the interindemnity arrangement.

(e) A peer review committee or committees shall be established by the trust agreement to review the qualifications of any physician

and surgeon to participate or continue to participate in such interindemnity arrangement, and to review the quality of medical services rendered by any participating member, as well as the validity of medical malpractice claims made against participating members. Any physician and surgeon, prior to becoming a participating member of such interindemnity arrangement, shall be reviewed and approved by a majority of the members of such peer review committee. No peer review committee, or any of its members, shall be liable for any action taken by such committee in reviewing the qualifications of a physician and surgeon to participate or continue to participate, or the quality of medical services rendered, or the validity of a medical malpractice claim, unless it is alleged and proved that such action was taken with actual malice.

(f) The following are hereby defined as unfair methods of competition and deceptive acts or practices with respect to cooperative corporations or interindemnity arrangements provided for in this section.

(1) Making any false or misleading statement as to, or issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any interindemnity arrangement or the benefits or advantages promised thereby, or making any misleading representation or any misrepresentation as to the financial condition of such interindemnity arrangement, or making any misrepresentation to any participating member for the purpose of inducing or tending to induce such member to lapse, forfeit, or surrender his or her rights to indemnification under such interindemnity arrangement. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(2) Making or disseminating or causing to 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 whatsoever, any statement containing any assertion, representation, or statement with respect to such cooperative corporations or interindemnity arrangements, or with respect to any person in the conduct of such cooperative corporations or interindemnity arrangements, which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(3) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in an unreasonable restraint of, or monopoly in, such cooperative corporations or interindemnity arrangements.

(4) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or placed before the public any false statement of financial condition of such a cooperative corporation or interindemnity arrangement with intent to deceive.

(5) Making any false entry in any book, report, or statement of such a cooperative corporation or interindemnity arrangement with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such a cooperative corporation or interindemnity arrangement is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to such a cooperative corporation or interindemnity arrangement in any book, report, or statement of such a cooperative corporation or interindemnity arrangement.

(6) Making or disseminating, or causing to be made or disseminated, before the public in this state, in any newspaper or other publication, or any other advertising device, or by public outcry or proclamation, or in any other manner or means whatever, whether directly or by implication, any statement that such a cooperative corporation or interindemnity arrangement is a member of the California Insurance Guarantee Association, or insured against insolvency as defined in Section 119.5. This paragraph shall not be interpreted to prohibit any activity of the California Insurance Guarantee Association or of the commissioner authorized, directly or by implication, by Article 14.2 (commencing with Section 1063) of Chapter 1 of this part.

(7) Knowingly committing or performing with such frequency as to indicate a general business practice any of the following unfair claims settlement practices:

(A) Misrepresenting to claimants pertinent facts or provisions relating to any coverage at issue.

(B) Failing to acknowledge and act promptly upon communications with respect to claims arising under such interindemnity arrangements.

(C) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under such interindemnity arrangements.

(D) Failing to affirm or deny coverage of claims within a reasonable time after proof of claim requirements have been completed and submitted by the participating member.

(E) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(F) Compelling participating members to institute litigation to

recover amounts due under an interindemnity arrangement by offering substantially less than the amounts ultimately recovered in actions brought by such participating members when such participating members have made claims under such interindemnity arrangements for amounts reasonably similar to the amounts ultimately recovered.

(G) Attempting to settle a claim by a participating member for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application for membership in such an interindemnity arrangement.

(H) Attempting to settle claims on the basis of an interindemnity arrangement which was altered without notice to the participating member.

(I) Failing, after payment of a claim, to inform participating members, upon request by them, of the coverage under which payment has been made.

(J) Making known to claimants a practice of such cooperative corporation or interindemnity arrangement of appealing from arbitration awards in favor of claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(K) Delaying the investigation or payment of claims by requiring a claimant, or his or her physician, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(L) Failing to settle claims promptly, where liability has become apparent, under one portion of an interindemnity arrangement in order to influence settlements under other portions of the interindemnity arrangement.

(M) Failing to provide promptly a reasonable explanation of the basis relied on in the interindemnity arrangement, in relation to the facts of applicable law, for the denial of a claim or for the offer of a compromise settlement.

(N) Directly advising a claimant not to obtain the services of an attorney.

(O) Misleading a claimant as to the applicable statute of limitations.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 4053 are both chaptered and become effective on or before January 1, 1977, both bills amend Section 25100 of the Corporations Code, and this bill is chaptered after Assembly Bill No. 4053, that Section 25100 of the Corporations Code, as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 4053, and that on the operative date of Assembly Bill No. 4053 Section 25100 of the Corporations Code as amended by Section 1 of this act be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 25100

proposed by Assembly Bill No. 4053. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 4053 are both chaptered and become effective on or before January 1, 1977, both bills amend Section 25100, and this bill is chaptered after Assembly Bill No. 4053, in which case Section 2 of this act shall become operative on the operative date of Assembly Bill No. 4053.

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:

Due to the continuing medical malpractice insurance crisis, it is necessary that this act take effect immediately so that the interindemnity arrangements may commence functioning at the earliest possible time in order to avert the loss of services provided by health care providers.

CHAPTER 1463

An act to amend Section 1005.1 of, and to add Section 1005.4 to, the Water Code, and to amend Sections 58, 61, 65, 67, and 79 of, and to add Section 76 to, the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959), relating to Antelope Valley-East Kern Water Agency.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 1005.1 of the Water Code is amended to read:

1005.1. Cessation of or reduction in the extraction of ground water by the owner of a right to extract, as the result of the use of an alternate supply of water from a nontributary source, shall be and is deemed equivalent to, and for purposes of establishing and maintaining any right to extract the ground water shall be construed to constitute, a reasonable beneficial use of the ground water to the extent and in the amount that water from the alternate source is applied to reasonable beneficial use, not exceeding, however, the amount of such reduction. Any such user of water from an alternate nontributary source who seeks the benefit of this Section 1005.1, shall file with the board, on or before December 31st of each calendar year, a statement of the amount of water from said source so applied to reasonable beneficial use pursuant to the provisions of this section during the next preceding water year (November 1st to October 31st), and such user cannot claim the benefit of this section for any water year for which such statement is not so filed.

"Ground water" for the purpose of this section and of Sections

1005.2 and 1005.4 means water beneath the surface of the ground, whether or not flowing through known and definite channels.

The provisions of this section apply only as to the cessation of, or reduction in, the extraction of ground water within that area in this state defined by the exterior boundaries of the Counties of San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Imperial, Riverside, San Bernardino, and Kern.

The term "nontributary source" as used in this section shall be deemed to include water imported from another watershed, or water conserved and saved in the watershed by a water conservation plan or works without which such water of the same watershed would have wasted, or would not have reached the underground source of supply of the owner relying upon this section.

SEC. 2. Section 1005.4 is added to the Water Code, to read:

1005.4. Cessation of or reduction in the extraction of ground water, to permit the replenishment of such ground water by the use of water from an alternate nontributary source, is hereby declared to be a reasonable beneficial use of the ground water to the extent and in the amount that water from such alternate source is applied to beneficial use, not exceeding, however, the amount of such reduction. No lapse, reduction or loss of any right in ground water shall occur under such conditions. Any such user of water from an alternate source who seeks the benefit of this section with respect to the use of such water occurring prior to January 1, 1977, shall file with the board, on or before April 1, 1977, a statement of the amounts of reduction in the extraction of ground water as the result of water from such alternate source having been so applied to reasonable beneficial use prior to January 1, 1977, to permit the replenishment of such ground water and such amounts shall be segregated and shown for each water year (November 1st to October 31st) during which such use occurred prior to January 1, 1977. Any such user of water from an alternate source who seeks the benefit of this section with respect to the use of such water occurring subsequent to January 1, 1977, shall file with the board, on or before December 31st of each calendar year, a statement of the amount of reduction in the extraction of ground water as the result of water from such alternate source having been so applied to reasonable beneficial use during the next preceding water year (November 1st to October 31st) to permit the replenishment of such ground water. Such user cannot claim the benefit of this section for any water year for which such statement is not so filed.

The provisions of this section apply only as to the cessation of, or reduction in, the extraction of ground water within that area in this state defined by the exterior boundaries of the County of Kern.

The term "nontributary source," as used in this section, shall be deemed to include water imported from another watershed or water conserved and saved in the watershed by a water conservation plan or works without which such water of the same watershed would have wasted, or would not have reached the underground source of

supply of the owner relying upon this section.

SEC. 3. Section 58 of the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959) is amended to read:

Sec. 58. 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 orders 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 Antelope Valley-East Kern Water Agency as follows:". Each director shall receive compensation in an amount not to exceed twenty dollars ($20) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his duties required or authorized by the board. Any vacancy in the board of directors shall be filled pursuant to the provisions of Section 1780 of the Government Code, provided, however, that the person so chosen shall be a resident of and otherwise qualified to be a director from the division in which the vacancy shall occur and shall hold office pursuant to the provisions of Section 1780 of the Government Code.

SEC. 4. Section 61 of the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959), as amended by Chapter 586 of the Statutes of 1975, is further amended to read:

Sec. 61. The Antelope Valley-East Kern Water Agency incorporated as herein provided, shall have power:

1. To have perpetual succession;

2. 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;

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

4. To take by grant, purchase, gift, devise, lease, or lease with option to purchase, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the Antelope Valley-East Kern Water Agency;

5. To acquire, or contract to acquire, waterworks or a waterworks system, waters, water rights, lands, rights and privileges and construct, maintain and operate conduits, pipelines, reservoirs, works, machinery and other property useful or necessary to store, convey, supply or otherwise make use of water for a waterworks plant or system for the benefit of the agency, and to complete, extend, add to, repair, or otherwise improve any waterworks or waterworks system acquired by it as herein authorized;

5a. To construct, maintain, improve and operate public recreational facilities appurtenant to any water reservoir operated or

contracted to be operated by the Antelope Valley-East Kern Water Agency, and to provide by ordinance regulations binding upon all persons to govern the use of such facilities including regulations imposing reasonable charges for the use thereof. Violation of any such regulation shall be a misdemeanor;

6. 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 water under the control of the agency to cities, and to other public corporations and public agencies within the agency, and to the inhabitants of such cities and of other territory within the agency, and to persons, corporations, and other private agencies within the agency for use within said agency 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;

6a. To supply and deliver agency water to publicly owned and operated golf courses and other publicly owned and operated recreational facilities and to public schools, school districts and public school properties, and to fix and establish special rates, terms and conditions for the use and sale of water for each of these purposes; provided, however, that this provision shall not be construed to indicate legislative intent either for or against the existence of any power of the agency to furnish water to other persons, firms or corporations at just and reasonable rates;

7. To exercise the right of eminent domain to take any property necessary to supply the agency or any portion thereof with water, and to carry out any other powers 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. The agency may exercise the power of eminent domain with respect to property situated outside the boundaries of the agency if it first obtains the consent thereto of the board of supervisors of the county in which such property is located;

8. 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.

8a. To issue negotiable promissory notes bearing interest at a rate not exceeding 8 percent per annum; provided, however, that said notes shall be payable from revenues and taxes legally derived subject to any maximum property tax rate procedure; 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) in the Antelope Valley-East Kern Water Agency but shall not otherwise exceed the lesser of either two million dollars ($2,000,000) or 2 percent of the assessed valuation of the taxable property in the Antelope Valley-East Kern Water 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;

9. 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;

9a. 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 use of such water during such periods for specific uses which the agency may from time to time find to be nonessential;

10. To prescribe and define by ordinance the restrictions, prohibitions and exclusions referred to in subdivision 9a 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 pursuant to Section 6061 of the Government Code in full in a newspaper of general circulation, printed, published and circulated in the agency within 10 days after adoption, or if there be no such newspaper it shall be posted within said time in three public places within the agency;

11. To make contracts, to employ labor, and do all acts necessary for the full exercise of the agency's powers;

12. To provide by ordinance of its board of directors for the pensioning of officers or 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 officers or 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 officers or 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 officers or employees before such pensions shall be available to them;

13. To acquire, control, distribute, store, spread, sink, treat, purify, reclaim, recapture, and salvage any water, including sewage and storm waters, for the beneficial use or uses and protection of the agency or its inhabitants or the owners of rights to water therein.

14. 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. 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 Antelope Valley-East Kern Water Agency 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 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.

15. To commence, maintain, intervene in, and compromise, in the name of the agency, any action or proceeding involving or affecting the ownership or use of water or water rights within the agency, used or useful for any purpose of the agency, or a common benefit to lands within the agency or its inhabitants.

16. Distribute water to persons in exchange for ceasing or reducing ground water extractions and to fix the terms and conditions of any contract under which producers may agree voluntarily to use water from a nontributary source in lieu of ground water, and to such end the agency may become a party to such contract and pay from agency funds such portion of the cost of such waters as will encourage the purchase and use of such water in lieu of pumping so long as the persons or property within the agency are

02622 284420 93

directly or indirectly benefited.

17. To issue bonds under Section 68 of this act for the purpose of providing money required to be paid to the agency organized under the Metropolitan Water District Act by the board of directors of the agency as all or part of the terms and conditions upon which the corporate area of the Antelope Valley-East Kern Water Agency may be annexed to and become a part of said metropolitan water district. The amount of said bonds may include expenses of all proceedings for the authorization, issuance and sale of the bonds.

18. To issue revenue bonds for any purpose for which such bonds could be issued under the provisions of the Revenue Bond Law of 1941 or any other law which by its terms is applicable to the agency formed under this act.

19. To use the Improvement Act of 1911 for the construction of any facilities authorized to be constructed under the provisions of this act. The powers and duties conferred by the Improvement Act of 1911 on the various boards, officers and agents of cities shall be exercised by the respective boards, officers and agents of the Antelope Valley-East Kern Water Agency. In the application of said Improvement Act of 1911 to proceedings instituted by the Antelope Valley-East Kern Water Agency, the terms used in said Improvement Act of 1911 shall have the following meanings:

(a) "City council" and "council" shall mean the Board of Directors of the Antelope Valley-East Kern Water Agency.

(b) "Municipality" and "city" shall mean the Antelope Valley-East Kern Water Agency.

(c) "Clerk" and "city clerk" shall mean the secretary.

(d) "Superintendent of streets," "street superintendent" and "city engineer" shall mean the chief engineer of the agency.

(e) "Tax collector" shall mean the county tax collector.

(f) "Treasurer" and "city treasurer" shall mean the treasurer of the Antelope Valley-East Kern Water Agency.

(g) "Mayor" shall mean the president of the board of directors of the Antelope Valley-East Kern Water Agency.

(h) "Right-of-way" shall mean any parcel of land in, on, under or through which a right-of-way or easement has been granted to the agency for the purpose of constructing and maintaining any works or improvements of the Antelope Valley-East Kern Water Agency.

Any certificates or documents required to be filed or recorded in the office of the superintendent of streets or street superintendent shall be filed or recorded in the office of the secretary of the Antelope Valley-East Kern Water Agency.

20. To disseminate information concerning the rights, properties, and activities of the agency.

SEC. 5. Section 65 of the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959) is amended to read:

Sec. 65. All powers, privileges and duties vested in or imposed upon the Antelope Valley-East Kern Water 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 power:

(1) 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.

(2) To fix the location of the principal place of business of the agency and the location of all offices and departments maintained hereunder.

(3) 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.

(4) To prescribe by ordinance a system of civil service.

(5) 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.

(6) To prescribe a method of auditing and allowing or rejecting claims and demands.

(7) 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 in cases where work is not to be done by the agency itself by force account, and the amount involved shall be ten thousand dollars ($10,000), or more, any contract for the doing of such work shall be let to the lowest responsible bidder, after publication, in the manner prescribed by the board, of notices inviting bids therefor, subject to the right of said board to reject any and all proposals; and provided further, that contracts, in writing or otherwise, for the acquisition or disposal of any real or personal property may be let without calling for competitive bids. The board may, from time to time, fix and establish the manner of calling for bids and letting contracts, but except as such procedure so established by the board otherwise requires, all contracts may be entered into upon such terms and in such manner as the board may authorize.

(8) To fix the rates at which water should be sold, and to establish different rates for different classes or conditions of service; provided, that rates shall be uniform for like classes or conditions 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 82 or 83 hereof, shall be

deemed to be a rate for a different class or condition of service. The board shall have the power, by resolution or ordinance to adopt regulations respecting the exercise of its powers and the carrying out of its purposes, and to fix and collect rates and charges for the providing or the availability of any service it is authorized to provide or make available for the sale, lease or other disposition of water or other product of its works or operations, including standby charges and connection charges. A violation of a regulation of the agency adopted by ordinance is a misdemeanor punishable by fine not to exceed one hundred dollars ($100), imprisonment not to exceed one month, or both.

SEC. 4.5. Section 67 of the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959) is amended to read:

Sec. 67. 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 chief engineer or the general manager, as may be designated by the board of directors, shall have full charge and control of the maintenance, operation and construction of the waterworks or waterworks system of the agency with full power and authority to employ and discharge all employees and assistants at pleasure, prescribe their duties, fix their compensation, subject to the approval of the board of directors.

The chief engineer and the general manager shall perform such duties as may be imposed on each of them by the board of directors. The chief engineer and the general manager shall report to the board of directors in accordance with such rules and regulations as the board may direct.

The attorney shall be the legal adviser of the agency and shall perform such other duties as may be 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.

The chief engineer, general manager, secretary, and treasurer, and all other 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 provide. The premiums on such bonds shall be paid by the agency.

SEC. 5. Section 76 is added to the Antelope Valley-East Kern

Water Agency Law (Chapter 2146 of the Statutes of 1959), to read:

Sec. 76. The agency, by ordinance, may fix, on or before the first day of July in any calendar year, a water standby or availability charge within the agency or in any improvement district thereof to which water is made available by the agency through underground or by surface facilities, whether the water is actually used or not. The standby charge shall not exceed ten dollars ($10) per acre per year for each acre of land within the agency or any improvement district thereof or ten dollars ($10) per year for any parcel of less than one acre. The ordinance fixing a standby charge shall be adopted by the board only after adoption of a resolution setting forth the particular schedule or schedules of charges proposed to be established by ordinance and after notice and hearing in the manner prescribed in the District Reorganization Act of 1965 (commencing with Section 56000 of the Government Code). The ordinance fixing a standby charge may establish schedules varying the charges according to land uses, water uses, and degree of water availability. On or before the third Monday in August, the board shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of each parcel of land within the agency upon which a standby charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the district on each parcel of land. The board shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes, the board of supervisors shall levy, in addition to any other tax it levies, a standby charge in the amounts for the respective parcels fixed by the board. All county officers charged with the duty of collecting taxes shall collect agency standby charges with the regular tax payments to the county. Such charges shall be collected in the same form and manner as county taxes are collected and shall be paid to the agency. Charges fixed by the agency shall constitute a lien on the property benefited thereby as of the same time and in the same manner as does the tax lien securing such annual taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent and unpaid charges relating to such property shall be transferred to the unsecured roll for collection.

SEC. 6. Section 79 of the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959) is amended to read:

Sec. 79. 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 on or before the third Monday in August, the board of directors shall certify to the board of supervisors and to the county auditor the rate or rates so fixed and shall furnish a statement of any delinquent and unpaid charges for water and other services, or either, requested in writing by the owner of the property that remain delinquent and unpaid for 60 days or more on July 1st. The county auditor shall compute and enter in the county assessment roll the respective sums to be paid as an agency tax on the property in the agency, using the rate or rates of levy as fixed by the board and the assessed value as found on the assessment roll for the property subject to the particular tax. The amount of any charges for water and other services included in the statement of delinquent and unpaid charges shall be added to and become a part of the annual taxes next levied upon the property upon which the water for which the charges are unpaid was used and upon the property subject to the charges for any other agency services. The amount of unpaid charges shall constitute a lien on that property as of the same time and in the same manner as does the tax lien securing such annual taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such charges, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the charges relating to such property shall be transferred to the unsecured roll for collection. The county shall deduct from the charges collected an amount sufficient to compensate the county for costs incurred in collecting such delinquent and unpaid charges. The amount of such compensation shall be fixed by agreement between the board of supervisors and the district's board of directors. A district shall notify the holder of title to land whenever delinquent and unpaid charges for water and other services or either which could become a lien on such property pursuant to this section remain delinquent and unpaid for 60 days. This procedure may be used to collect delinquent and unpaid water charges from corporations, including mutual water companies, as well as individuals.

Notwithstanding any other provision of this act taxes for the general administrative purposes of the agency should be levied on all property within the agency or portion thereof subject to the particular tax and the aggregate tax levied for such administrative purposes shall for the fiscal year not exceed ten cents ($0.10) on each one hundred dollars ($100) of assessed valuation on the taxable property in the agency or such portion thereof. This shall be exclusive of any tax levied to meet the payment of interest or principal on any bonded indebtedness of the agency or any indebtedness arising out of any contractual obligations with the

federal, state, county or city governments or political subdivision thereof including this agency. And it shall be the duty of all county officers charged with the duty of collecting taxes to collect such tax in 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. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 1927 are both chaptered and become effective January 1, 1977, both bills amend Section 1005.1 of, and add Section 1005.4 to, the Water Code, and this bill is chaptered after Senate Bill No. 1927, that Section 1005.1 of the Water Code as amended by Section 1 of Senate Bill No. 1927 and Section 1005.4 of the Water Code as added by Section 2 of Senate Bill No. 1927 shall prevail over Section 1005.1 of the Water Code as amended by this act and Section 1005.4 of the Water Code as added by this act. Therefore, Sections 1 and 2 of this act shall not become operative if this bill and Senate Bill No. 1927 are both chaptered and become effective January 1, 1977, both bills amend Section 1005.1 of, and add Section 1005.4 to, the Water Code, and this bill is chaptered after Senate Bill No. 1927.

SEC. 8. 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 this act is in accordance with the request of a local government entity or entities which desire legislative authority to act to carry out the program specified in this act.

CHAPTER 1464

An act to amend Sections 37850, 37860, 37861, 37870, 37871, 37872, and 37873 of, and to add Sections 37874 and 37875 to, the Health and Safety Code, relating to area housing councils.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 37850 of the Health and Safety Code is amended to read:

37850. "Area housing plan means a plan meeting the legal requirements for a local housing element, required by Section 65302 of the Government Code, and which is adopted by an area housing council.

SEC. 2. Section 37860 of the Health and Safety Code is amended to read:

37860. The Legislature finds and declares that the formation of area housing councils, their adoption of area housing plans, and their assistance in implementation of such plans by providing and obtaining funding and coordination may facilitate areawide solutions to problems of more-than-local concern.

Notwithstanding any other provisions of law, the governing body of any city or county, upon adoption of a resolution declaring the need for participation in an area housing council, may enter into an agreement with any other city or county whose governing body has adopted a resolution declaring such need, to form an area housing council.

SEC. 3. Section 37861 of the Health and Safety Code is amended to read:

37861. A council shall consist of members appointed from the governing body of each city or county as the agreement pursuant to Section 37860 may provide. The council shall be advised by an advisory group consisting of not less than the following members:

(a) The director of planning of the planning agency of each member city or county.

(b) The executive director of the housing authority or a housing authority commissioner appointed by each member city or county.

(c) A member appointed by the governing body of each member city or county, who shall be representative of the housing construction industry.

(d) A member appointed by the governing body of each member city or county, who shall be representative of the consumers of housing or of private nonprofit organizations concerned with meeting local housing needs.

(e) A member to be appointed at the option of the council, who shall be representative of the mobilehome industry.

The members shall serve at the pleasure of the respective governing bodies.

SEC. 4. Section 37870 of the Health and Safety Code is amended to read:

37870. A council shall develop an area housing plan covering the cities and counties comprising the council's membership. It may employ staff for such purpose, including, by agreement, staff of a member city or county or of a council of governments certified by the United States Department of Housing and Urban Development for the purpose of comprehensive areawide planning. The plan may include a housing allocation plan assigning a portion of total need and

an annual housing development goal to each member city or county. However, if the United States Department of Housing and Urban Development has certified a council of governments to do comprehensive areawide planning for the area included in the area housing plan, any housing allocation plan included in the area housing plan shall be consistent with the regional housing allocation plan developed by such council of governments, as determined by the council of governments.

SEC. 5. Section 37871 of the Health and Safety Code is amended to read:

37871. For the purpose of carrying on the business of the council, the agreement executed pursuant to Section 37860 shall require contributions from each member city or county. The contributions may include funds collected by a surcharge not to exceed one-tenth of 1 percent of the estimated cost of building construction and improvements collected by each member city or county upon issuance of building permits. Any city or county may impose the surcharge upon the building permits it issues, may make equivalent payments from other sources instead of collecting the surcharge, or may make payments from a combination of funds from a surcharge and funds from other sources.

SEC. 6. Section 37872 of the Health and Safety Code is amended to read:

37872. Up to one-half of the revenues of the area housing council collected pursuant to Section 37871 prior to adoption of the area housing plan by two or more member cities and counties may be used in developing the area housing plan. Upon the adoption of the area housing plan as the housing element of the general plan of a city or county, not less than one-half of the cumulative contribution of moneys collected by the council to date from the adopting city or county, pursuant to Section 37871, shall be returned by the council to the city or county, and may be used only for the purpose of implementing the area housing plan and housing element of the general plan of the city or county.

SEC. 7. Section 37873 of the Health and Safety Code is amended to read:

37873. (a) Up to one-half of the revenues of the council collected pursuant to Section 37871 subsequent to adoption of the area housing plan by two or more member cities and counties may be used in preparation of area housing plan amendments for submission to member cities and counties, review of amendments proposed by cities and counties, review of housing development proposals to determine consistency with the area housing plan, and implementation of the area housing plan. The council may employ staff specified in Section 37870 for such purpose.

(b) At the end of each calendar year during which a member city or county, in the opinion of a majority of the council, has made reasonable progress toward implementation of the area housing plan, the council shall return to such city or county not less than

one-half of its yearly contribution of moneys collected from such city or county during the year pursuant to Section 37871. Such money may be used only for the purpose specified in Section 37872. Any revenues collected pursuant to Section 37871 retained by the area housing council either through failure of member cities and counties to adopt the area housing plan within one year of its adoption by two or more member cities and counties, or through withholding of approval of implementation progress, may be used for the purposes specified in subdivision (a) of this section.

SEC. 8. Section 37874 is added to the Health and Safety Code, to read:

37874. In implementation of an area housing plan, a council may also provide homeowner counseling, and may also develop programs for rehabilitation and improvement of residential dwellings, as authorized by the area housing plan; but only after the affected city or county has approved the area housing plan. The council may seek additional private or governmental funds, and may join with member cities and counties or with the state in applying for such funds.

SEC. 9. Section 37875 is added to the Health and Safety Code, to read:

37875. Any member city or county may withdraw from a council at any time, and when there are no longer two member cities or counties the council shall be dissolved. No reimbursements are to be made to withdrawing members, and revenues pursuant to Section 37871 shall continue to be collected and paid to the end of the calendar year of withdrawal, except in case of dissolution. In case of dissolution, collections pursuant to Section 37871 shall immediately cease, and reimbursements shall be made in proportion to former contributions of the member cities and counties participating in the dissolution.

CHAPTER 1465

An act to amend Sections 990 and 990.4 of the Government Code, to amend Sections 32121 and 32300 of the Health and Safety Code, and to add Sections 1284 and 1310.1 to the Insurance Code, relating to medical malpractice insurance.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976.]

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

SECTION 1. The cost of medical malpractice insurance threatens to jeopardize the availability of quality health care to the public, and the Legislature finds that it is a valid public purpose in allowing hospital districts to spend public funds for the purposes of this act.

SEC. 2. Section 990 of the Government Code is amended to read:

990. Except for a liability which may be insured against pursuant to Division 4 (commencing with Section 3200) of the Labor Code, a local public entity may:

(a) Insure itself against all or any part of any tort or inverse condemnation liability and a hospital district may coinsure with its medical staff.

(b) Insure any employee of the local public entity against all or any part of his liability for injury resulting from an act or omission in the scope of his employment.

(c) Insure, contract or provide against the expense of defending a claim against the local public entity or its employee, whether or not liability exists on such claim, including a claim for damages under Section 3294 of the Civil Code or otherwise for the sake of example or by way of punishment, where such liability arose from an act or omission in the scope of his employment, and an insurance contract for such purpose is valid and binding notwithstanding Section 1668 of the Civil Code, Section 533 of the Insurance Code, or any other provision of law.

Nothing in this section shall be construed to authorize a local public entity to pay for, or to insure, contract, or provide for payment for, such part of a claim or judgment against an employee of the local entity as is for punitive or exemplary damages.

SEC. 2.5. Section 990 of the Government Code is amended to read:

990. (a) Except for a liability which may be insured against pursuant to Division 4 (commencing with Section 3200) of the Labor Code, a local public entity may:

(1) Insure itself against all or any part of any tort or inverse condemnation liability, and a hospital district may coinsure with its medical staff.

(2) Insure any employee of the local public entity against all or any part of his liability for injury resulting from an act or omission in the scope of his employment.

(b) Except for a liability which may be insured against pursuant to Division 4 (commencing with Section 3200) of the Labor Code, the state and a local public entity shall insure, contract or provide against the expense of defending a claim against the state or local public entity or its employee, whether or not liability exists on such claim, including a claim for damages under Section 3294 of the Civil Code or otherwise for the sake of example or by way of punishment, where such liability arose from an act or omission in the scope of his employment, and an insurance contract for such purpose is valid and binding notwithstanding Section 1668 of the Civil Code, Section 533 of the Insurance Code, or any other provision of law.

(c) Nothing in this section shall be construed to authorize a local public entity to pay for, or to insure, contract, or provide for payment for, such part of a claim or judgment against an employee of the local

entity as is for punitive or exemplary damages, except as provided in Section 990.1.

SEC. 3. Section 990.4 of the Government Code is amended to read:

990.4. The insurance authorized by this part may be provided by:

(a) Self-insurance, which may be, but is not required to be, funded by appropriations to establish or maintain reserves for self-insurance purposes and a hospital district may coinsure with the members of its attending medical staff.

(b) Insurance in any insurer authorized to transact such insurance in this state.

(c) Insurance secured in accordance with Chapter 6 (commencing with Section 1760) of Part 2 of Division 1 of the Insurance Code.

(d) Any combination of insurance authorized by subdivisions (a), (b) and (c).

SEC. 4. Section 32121 of the Health and Safety Code is amended to read:

32121. Each local hospital district shall have and exercise the following powers:

(a) To have and use a corporate seal and alter it at pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description within the limits of the district, and to control, dispose of, convey and encumber the same and create a leasehold interest in same for the benefit of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To administer any trust declared or created for hospitals of the district, and received by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such hospitals.

(f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, and to perform such functions in respect to the legal affairs of the district as the board may direct; and to call upon the district attorney of the county in which the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if that county has a county counsel, the directors may call upon the county counsel for such legal advice and assistance.

(g) To employ such officers and employees, including architects and consultants, as the board of directors deems necessary to carry on properly the business of the district.

(h) To prescribe the duties and powers of the hospital administrator, secretary and other officers and employees of any such hospitals; to determine the number of and appoint all such

officers and employees, and to fix their compensation, which officers and employees shall hold their offices or positions at the pleasure of the boards.

(i) To do any and all things which an individual might do which is necessary for and to the advantage of a hospital and a nurses' training school.

(j) To establish, maintain and operate one or more health facilities, situated within the territorial limits of the district.

(k) To do any and all other acts and things necessary to carry out the provisions of this division.

(*l*) To acquire, maintain, and operate ambulances or ambulance services within and without the district.

(m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs and such other health care provider groups and organizations as are necessary for the maintenance of good physical and mental health in the communities served by the district.

(n) To establish and operate in cooperation with its medical staff a coinsurance plan between the hospital district and the members of its attending medical staff.

SEC. 5. Section 32300 of the Health and Safety Code is amended to read:

32300. Bonds may be issued by a district for the purpose of acquiring, maintaining, constructing, or altering work, or for the purpose of funding the district's portion of the funding of a coinsurance plan between a hospital and the member of its attending medical staff, when, in either case, in the opinion of the directors, a special assessment would be inadvisable, and the expenses of such operations will be in excess of an amount which can reasonably be raised by the regular annual assessment for the running expenses of the district.

SEC. 6. Section 1284 is added to the Insurance Code, to read:

1284. Notwithstanding any other provision of this chapter or of this code, any reciprocal or interinsurance exchange which meets all of the conditions of this section shall be exempted from all reserve requirements of this code to which it would otherwise be subject:

(a) The subscribers are comprised solely of a local hospital district formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code and its attending medical staff, or any hospital (as defined in Section 1250 of the Health and Safety Code) and its attending medical staff. As used in this section, "attending medical staff" refers to licensed physicians and surgeons, podiatrists, and dentists who have hospital privileges at any hospital operated by the district, and not to interns or residents who are employees of such hospital or the district.

(b) The physicians and surgeons on the attending medical staff are independent contractors, whether individually, through professional corporations, or through partnership or clinic arrangements, and the creation of the reciprocal or interinsurance

exchange will not affect the prerogatives of such physicians and surgeons in accepting patients, charging fees, or similar issues in the management of a medical practice. This subdivision shall not be construed to limit the authority of a peer review committee to impose such restrictions on the staff privileges of a participating member of the attending medical staff as deemed warranted by the peer review procedure and medical audit methods provided by subdivision (h).

(c) The initial capitalization for the proposed reciprocal or interinsurance exchange specified in subdivisions (d), (e), and (f) shall be equivalent to the total professional liability losses paid by the hospital and its participating medical staff members during the immediately preceding 10 years. "Total personal liability losses" shall include all losses paid by the participating medical staff members, whether based on their practice in the hospital or outside the hospital. Such combined total shall be funded by equal contributions from the hospital and, collectively, the individual participating members of its attending medical staff. Such funds shall be used to pay for the losses incurred for awards, settlements, and legal fees relating to alleged acts of medical malpractice committed by the hospital or any or all of its participating medical staff members, whether committed in or out of the hospital, and for the operational costs of the reciprocal or interinsurance exchange. In the case of a hospital which has been in existence for less than 10 years, or which has substantially expanded its facilities over the preceding 10 years, or which has paid for no professional liability losses during the preceding 10 years, the commissioner may establish such capitalization requirements as he deems necessary and proper as compared to the amounts specified in subdivisions (d), (e), and (f).

(d) The primary self-retention medical liability risk amount for claims of one hundred thousand dollars ($100,000) or less for both the hospital and attending medical staff would be paid into an interest-bearing bank account.

(e) A catastrophic self-retention amount for claims in excess of one hundred thousand dollars ($100,000) but less than one million dollars ($1,000,000) for the hospital and attending medical staff would be deposited as cash or secured by letters of credit or certificates of deposit from banks or savings and loan associations, or by promissory notes from the hospital and individual or panel attending medical staff members.

(f) Excess catastrophic liability amounts for claims of one million dollars ($1,000,000) or more would either (1) be deposited as cash or secured by letters of credit or certificates of deposit from banks or savings and loan associations, or by promissory notes from the hospital and the individual or panel attending medical staff, or (2) be obtained through bank loans with the hospital and medical staff being fully assessable for the repayment of such loans.

(g) The reciprocal or interinsurance exchange would seek to obtain from a licensed insurer excess risk coverage for amounts

above the self-retention limit of subdivisions (c), (d), (e), and (f). The hospital and the individual members of the attending medical staff would have unlimited liability to contribute to any liability not covered by such excess risk coverage insurance.

(h) The amounts specified in subdivisions (d), (e), and (f) shall be available in the aggregate to meet the malpractice liabilities of the hospital and the participating members of the medical staff, and shall be replenished annually, on each July 1, to an amount equivalent to that specified in subdivision (c) for initial capitalization.

(i) Any member of the attending medical staff participating in the program shall, as a condition of such participation, be subject to an extensive peer review procedure and a medical audit method of documenting the quality of medical care.

SEC. 7. Section 1310.1 is added to the Insurance Code, to read:

1310.1. The board of a reciprocal or interinsurance exchange operating pursuant to Section 1284 shall be composed of members of the governing board of the hospital, the participating members of its attending medical staff, and health care consumers.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill 1059 are both chaptered and become effective January 1, 1977, both bills amend Section 990 of the Government Code, and this bill is chaptered after Assembly Bill No. 1059, that Section 990 of the Government Code, as amended by Section 2 of this act shall remain operative only until the operative date of Assembly Bill No. 1059, and that on the operative date of Assembly Bill No. 1059, Section 990 of the Government Code as amended by Section 2 of this act be further amended in the form set forth in Section 2.5 of this act to incorporate the changes in Section 990 proposed by Assembly Bill No. 1059. Therefore, Section 2.5 of this act shall become operative only if this bill and Assembly Bill No. 1059 are both chaptered and become effective January 1, 1977, both bills amend Section 990, and this bill is chaptered after Assembly Bill No. 1059, in which case Section 2.5 of this act shall become operative on the operative date of Assembly Bill No. 1059.

SEC. 9. 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 1466

An act to amend Sections 16690.2, 16702, 16709, 16710, 16711, 16720, 16721, 16725, 16726, 16728, 16729, 16730, 16730.1, 16732, 16733, 16738, 16738.1, 16738.2, 16738.4, 16738.5, 16740.5, 16746, 16746.5, 16750, 16751, 16760, 16761, 16762, 16763, 16764, 16765, 16766, 16767, 16768, 16769, 16783, and 16794 of, to amend the heading of Chapter 4

(commencing with Section 16760) of Division 12.5 of, to add Sections 16722.1 and 16752 to, and to repeal Section 16780 of, the Education Code, relating to child development services, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 16690.2 of the Education Code is amended to read:

16690.2. The Superintendent of Public Instruction shall establish a fee schedule for families utilizing child development services pursuant to this division.

No recipient of public assistance shall pay a fee. This fee schedule shall conform to that allowed by the federal social service regulations as designated in the California State Plan for Social Services.

SEC. 1.5. Section 16702 of the Education Code is amended to read:

16702. It is the intent of the Legislature that in providing child development programs the Superintendent of Public Instruction will give priority to children of families who qualify under applicable federal statutes or regulations as recipients of public assistance and other low-income and disadvantaged families. Federal reimbursement shall be claimed for any child receiving services under this division for whom federal funds are available.

It is further the intent of the Legislature to maximize the Department of Education's capacity to stimulate and coordinate resources, provide technical assistance, monitor program implementation, generate maximum federal reimbursement wherever possible for the federally eligible children, and to provide alternative funding from state and local agencies for those children for whom federal reimbursement may not be available.

SEC. 2. Section 16709 of the Education Code is amended to read:

16709. Child development facility means any facility providing child care services or preschool programs pursuant to this division for less than 24 hours a day consistent with Section 16722 pursuant to this division.

SEC. 3. Section 16710 of the Education Code is amended to read:

16710. Child development services means child care and preschool programs 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 Chapter 3, (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(e) Instruction in children's developmental activities for parents with prekindergarten children.

(f) Part-day preschool educational programs for prekindergarten age children which include, but are not limited to, comprehensive services such as educational development, health services, social services, nutritional services, parent education and parent participation, and staff development, designated as the State Preschool Program. Preschool programs as herein defined for which federal reimbursement is not available, shall be funded as prescribed by the Legislature in the Budget Act and, unless otherwise specified by the Legislature, shall not utilize federal funds made available through Title XX of the Social Security Act.

(g) Social services as necessary to insure parent-child adjustment 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.

(h) 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).

(i) 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.

(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.

(k) 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.

SEC. 4. Section 16711 of the Education Code is amended to read:

16711. The term "elementary school" contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, P.L. 85-864, as amended) shall include early childhood education programs and all child development service programs, for

the purpose of the cancellation provisions of the Loans to Students in Institutions of Higher Learning.

SEC. 5. Section 16720 of the Education Code is amended to read:

16720. The Department of Education shall develop and promote a full range of services as are essential to the creation of a child development program which will meet a wide variety of child needs. The range of services shall include as a minimum, all of the services listed in Section 16710.

Priority shall be given by the Department of Education to the employment of persons in child development programs with ethnic backgrounds which are similar to those of the child for whom child development services are provided.

SEC. 6. Section 16721 of the Education Code is amended to read:

16721. The Department of Education shall assist the State Departments of Employment Development, Benefit Payments, and Health by offering training and job opportunities in local child development programs to those persons who qualify under applicable federal statutes or regulations as recipients of public assistance or other low-income or disadvantaged persons.

SEC. 7. Section 16722.1 is added to the Education Code, to read:

16722.1. Commencing November 1, 1977, and on or before November 1 for each year thereafter, the Superintendent of Public Instruction shall submit to the Joint Budget Committee of the Legislature a report documenting the performance of child development programs operating pursuant to this division during the preceding fiscal year. Each annual report shall include, but is not limited to, the following information:

(a) Statistical data enumerating and describing children and families served by the programs, including distributions of families and children by income levels, by ethnic groupings, by children's ages, by marital status of parents, by reasons for receiving child care service (i.e., employment, training, education, protection), by public assistance status, and by family size.

(b) Statistical data enumerating and describing the characteristics of programs, including the types of programs in terms of size and type of facilities utilized, types of agencies operating programs as defined by Section 16712, and the staff-child ratios and the staff composition for each type of program and for each type of operating agency.

(c) Cost data describing the total costs and the average cost per hour of service for each type of program (as defined for purposes of subdivision (b)) and for each type of operating agency as defined by Section 16712.

(d) Evaluative data describing the quality of child development programs in accordance with measurement criteria as established by the Superintendent of Public Instruction.

Each annual child development report shall be in two parts: one part shall relate to subsidized child care services and one part shall relate to services under the State Preschool Program.

SEC. 8. Section 16725 of the Education Code is amended to read:

16725. The Superintendent of Public Instruction shall adopt rules and regulations that provide for procedures and standards for the accreditation of neighborhood family day care homes administered by the Department of Education pursuant to this division. Any neighborhood family day care home accredited by the Department of Education shall be exempt from licensure required by the provisions of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

SEC. 9. Section 16726 of the Education Code is amended to read:

16726. The Superintendent of Public Instruction shall be responsible for the formulation and conducting of public hearings essential to the establishment and promotion of all aspects of this division and shall be responsible for preparing any state plan required by federal law in order that this state may qualify for any federal funds available for child care or child development services, subject to the restrictions of Section 16705.

SEC. 10 Section 16728 of the Education Code is amended to read:

16728. The Superintendent of Public Instruction shall adopt rules and regulations which shall include standards for determining eligibility and priority of service.

Priority for service shall be established on the basis of family marital status and income, with higher priority being assigned children of single-parent families and families with the lowest incomes. Exceptions to these priority criteria shall be granted to any eligible child whose unique circumstances create a pressing need for child development services. The information necessary to establish eligibility of a child for federal reimbursement shall be completed as a part of intake procedures used in accepting a child for care or service.

The regulations formulated and promulgated pursuant to this section shall include the recommendations of the Department of Health relative to health care screening and the provision of health care services. The Superintendent of Public Instruction shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill or handicapped children.

This section shall become operative on the same date as Reorganization Plan No. 1 of 1970 becomes operative.

SEC. 11. Section 16729 of the Education Code is amended to read:

16729. The Superintendent of Public Instruction shall establish a fee schedule for families utilizing child development services pursuant to this division. No recipient of public assistance shall pay a fee nor shall the State Preschool Program charge a fee. Insofar as federal funds are utilized, this fee schedule shall conform to that allowed by the federal social service regulations as designated in the California State Plan for Social Services.

The Superintendent of Public Instruction shall establish guidelines according to which the director or a duly authorized representative, of the child development centers will certify children as eligible for state reimbursement pursuant to this section.

SEC. 11.5. Section 16730 of the Education Code is amended to read:

16730. Notwithstanding any provision of law to the contrary, the Regents of the University of California, the Trustees of the California State University and Colleges, the governing boards of community college districts, and the governing bodies of any private nonprofit institution of postsecondary education may establish and maintain child development centers on or near their respective campuses.

The Department of Education may accept funds from the Regents of the University of California, the Trustees of the California State University and Colleges, the governing boards of community college districts, and any other private nonprofit postsecondary institutions, student fees, parent fees, any public funds, not otherwise prohibited by law, and any private funds or resources authorized by a public or private nonprofit agency as the 25-percent local share to obtain the 75-percent state matching funds. The governing board of any postsecondary education institution shall establish in its treasury a fund to be known as the "child development fund" into which shall be paid all funds received by the postsecondary institution for, or from the operation of, child development services under this division. The costs incurred in the maintenance and operation of child development services shall be paid as required pursuant to Section 16749.

The Superintendent of Public Instruction shall adopt rules and regulations to facilitate the funding and reimbursement procedures required by this division.

The Superintendent of Public Instruction, with approval by the State Board of Education, shall establish rules and regulations governing programs operated pursuant to this section which shall insure that subsidized day care provided to student families shall relate to the academic load of the child's parents. The definition of full- and part-time student shall be determined as the segment of postsecondary education defines full- and part-time student for academic purposes.

SEC. 12. Section 16730.1 of the Education Code is amended to read:

16730.1. A student family, for the purposes of this division, shall be defined as a family with a parent enrolled in an approved academic or vocational program, including one engaged in an educational work-in-training program, leading to a degree which will either further that person's educational or employment potential, or both.

A low-income student family, for purposes of this division, shall be defined as a family whose gross monthly income is less than, or falls within, the fee schedule established pursuant to Section 16729.

SEC. 13. Section 16732 of the Education Code is amended to read:

16732. The Superintendent of Public Instruction shall establish reasonable standards and maximum reimbursement rates for the delivery of specific types of child development services pursuant to Section 16710 and consistent with Section 16722. Maximum reimbursement rates shall be the equivalent of one dollar and twenty-one cents ($1.21) per child-hour for participants above the age of 2 and the equivalent of one dollar and forty-four cents ($1.44) per child-hour for participants age 2 or below, or actual program costs, whichever is less. In computing state reimbursements, parent fees shall be deducted from the maximum reimbursement rate or actual cost, whichever is less. For each fiscal year, reimbursement rates shall be prescribed by the Legislature in the Budget Act; however, the State Preschool Program and the Migrant Child Care Program shall not be covered by such reimbursement rates.

If the migrant child care programs operated pursuant to this division utilize reimbursement procedures other than payment per child-hour, which shall be permissible, the cost per child, when converted to child-hours, shall not exceed the applicable contract reimbursement level.

The Superintendent of Public Instruction may establish such regulations as he deems advisable concerning conditions of service and hours of enrollment for children in the programs.

SEC. 14. Section 16733 of the Education Code is amended to read:

16733. No standard, rule or regulation shall require medical examination or immunization for admission to a child development program of a child whose parent or guardian files a letter with the governing board of the child development program stating that such medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of parent or guardian having filed such a letter; provided, however, that whenever there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child may be temporarily excluded from the program until the governing board of the school district is satisfied that any contagious or infectious disease does not exist.

SEC. 15. Section 16738 of the Education Code is amended to read:

16738. The Legislature declares the need for a pilot study to develop and test a coordinated child care delivery system which shall provide the parent a choice in selecting quality child care at costs responsive to the parent's willingness and ability to pay.

The objectives of the pilot study shall include but not be limited to the following objectives:

(a) To measure the effectiveness and efficiency of a delivery system which permits the eligible parent to select and purchase child care services based on a fee schedule requiring the parent to pay a

proportionate share of the child care costs; to determine the existing types of care and range of services; to measure changes in the use of these services and development of alternate types of care as determined by parent choice; to stimulate a variety of alternate child care resources; to describe the demographic characteristics of the population seeking these services and their incidence by type of service selected; to assess the costs of delivering these services.

(b) To determine the applicability of the fee schedule described in Section 16729; to define the income level at which the fee schedule no longer applies as measured by its limited utility in aiding low-income families to obtain or maintain employment; to define appropriate eligibility criteria and priorities for services; and to define appropriate standards for cost and quality of types of care and services.

(c) To develop and evaluate appropriate eligibility and certification procedures and parent fee payment procedures; to identify informational needs and accountability requirements of the child care delivery system; to develop and evaluate appropriate monitoring and accountability mechanisms required by the system.

(d) To develop the management guidelines, policies and techniques for administering the system statewide and to develop strategies for phasing out the existing system and introducing the new on a statewide basis.

SEC. 16. Section 16738.1 of the Education Code is amended to read:

16738.1. (a) The site for the pilot study shall be selected according to the following criteria:

(1) It is representative of the majority of the population requiring subsidized child care services throughout the state;

(2) It has a documented demand for child care services;

(3) The facilities and range of services are typical of those occurring throughout the state; and

(4) It has a documented interest in alternate child care arrangements and delivery systems.

(b) The Superintendent of Public Instruction shall establish a fee schedule for families participating in the pilot study.

(c) Eligibility to participate in the pilot study shall be limited to those families residing within the pilot study area who (1) are defined by Section 16728, and (2) require child care services to seek or maintain employment or are in training leading directly to a recognized trade, paraprofession, or profession, and whose gross family income falls within the limits of the fee schedule as developed by the pilot study consistent with the objectives specified within subdivision (b) of Section 16738. The number of families eligible to participate within subdivision (c) (2) of this section shall be limited by the funds appropriated for the pilot study within Section 32 of Chapter 1191, Statutes of 1973 and may not exceed 1,200 families or approximately 1,800 children.

(d) The eligibility of an agency or entity as defined within Section

16712 to provide child care services under the pilot study to eligible families residing within the study area shall be contingent upon (1) its selection by the eligible family and (2) its conformity to standards and regulations developed by the pilot study and consistent with this division.

SEC. 17. Section 16738.2 of the Education Code is amended to read:

16738.2. The Department of Education shall administer the pilot study described within Sections 16738 and 16738.1. The Superintendent of Public Instruction shall be responsible for conducting continuous evaluation of the study, and providing technical assistance to encourage development of child care resources within the pilot study area. He shall report to the Legislative Budget Committee the plan for implementing this pilot study no later than 45 days following the effective date of the act which added this section. He shall submit a progress report on the status and evaluation of the pilot study no later than June 1, 1974, and every six months thereafter until the conclusion of the study.

A final report shall be submitted to the Legislature by the Superintendent of Public Instruction on or before July 1, 1977, and such report shall include the results of the study and recommendations for implementing a coordinated, statewide child care delivery system based on these results.

SEC. 18. Section 16738.4 of the Education Code is amended to read:

16738.4. The planning phase of this pilot study shall begin within 15 days of the effective date of the act which added this chapter. Implementation of the study within a selected test site shall begin no later than February 1, 1974, and shall continue through June 30, 1977.

SEC. 19. Section 16738.5 of the Education Code is amended to read:

16738.5. This chapter shall remain in effect only until July 1, 1977, and as of that date is repealed.

SEC. 20. Section 16740.5 of the Education Code is amended to read:

16740.5. The county superintendent of schools in each county, with the approval of the county board of education and the Superintendent of Public Instruction, shall have the authority to establish and maintain child development programs in the same manner and to the same extent as governing boards of school districts, except that nothing in this section shall be construed as vesting in the county superintendents of schools any authority to alone effect the levy and collection of any county, school, or other local taxes for the support of any such programs.

The establishment and maintenance of any children's center by the county superintendent of schools shall be undertaken, subject to the prior approval of both the county board of education and the Superintendent of Public Instruction, upon the application of one or more school districts under his jurisdiction.

SEC. 21. Section 16746 of the Education Code is amended to read:

16746. Notwithstanding any other provisions of this division, a public or private agency or a school district or a county superintendent of schools operating child development facilities may enter into an agreement with the Employment Development Department which will provide an opportunity to participants in work incentive programs under Division 2 (commencing with Section 5000) of the Unemployment Insurance Code for training in child development facilities. Training pursuant to such agreement shall have the objective of preparation for a career in the field of child development.

SEC. 22. Section 16746.5 of the Education Code is amended to read:

16746.5. Notwithstanding any other provision of this division, the governing board of a school district, county superintendent of schools, or other unit of local general purpose government may enter into agreements with any city, city and county, or other public agency, or with a private foundation, nonprofit corporation, or proprietary child care agency as defined in Section 16735, for the furnishing to, or use by, the governing board, county superintendent of schools, or other unit of local general purpose government in carrying out the provisions of this division, of property, facilities, personnel, supplies, equipment and other necessary items and such city, county, city and county, other public agency, or private foundation or nonprofit corporation, is authorized to enter into such agreements.

SEC. 23. Section 16750 of the Education Code is amended to read:

16750. The governing board of any school district or community college district maintaining a child development program may include in its budget the amount necessary to initiate, operate and maintain a child development program pursuant to this chapter and the board of supervisors shall levy a school district tax or a community college district tax necessary to raise such amount. The tax shall be in addition to any other school district or community college tax authorized by law to be levied.

The revenue derived from taxes levied pursuant to this section may be used to purchase real property and fixtures, to make alterations or additions to existing buildings, and to purchase furniture, apparatus or equipment for child development facilities maintained by the taxing school district. As used in this section, "purchase" includes the acquisition of property under a lease-purchase agreement.

SEC. 24. Section 16751 of the Education Code is amended to read:

16751. The county superintendent of schools maintaining a child development program may include in its budget the amount necessary to carry out its program pursuant to this chapter. The

county board of supervisors shall levy a county tax necessary to raise such amount in only those school districts for which the county superintendent of schools is providing or maintaining a child development program pursuant to Section 16740.5. Such tax shall be at a rate not to exceed ten cents ($0.10) per one hundred dollars ($100) of assessed valuation and shall be in addition to any other county tax authorized by law to be collected. The revenue derived from taxes levied pursuant to this section may be used to purchase real property and fixtures, to make alterations or additions to existing buildings, and to purchase furniture, apparatus or equipment for child development facilities maintained by the taxing county superintendent of schools. As used in this section, "purchase" includes the acquisition of property under a lease-purchase agreement.

SEC. 25. Section 16752 is added to the Education Code, to read:

16752. Sections 16750 and 16751 shall not apply to the part-day preschool programs described in subdivision (f) of Section 16710.

SEC. 26. The heading of Chapter 4 (commencing with Section 16760) of Division 12.5 of the Education Code is amended to read:

CHAPTER 4. CHILD DEVELOPMENT PROGRAM PERSONNEL QUALIFICATIONS

SEC. 27. Section 16760 of the Education Code is amended to read:

16760. The governing board of a public or private agency as defined within Section 16712 shall employ in a child development program only such persons who hold permits issued by the Commission for Teacher Preparation and Licensing. Any person holding a teaching credential issued by the State Board of Education or commission is deemed to hold a regular child development permit that will authorize supervision and instruction of children or supervision of a child development program. The filing with the county superintendent of schools of a regulation of a governing board or a public health agency requiring a physical examination of persons employed in programs shall be deemed to be the issuance of a valid permit except for persons employed in positions pertaining to the supervision and instruction of children or supervision of a program. Each person employed by the governing board of public or private agency as defined within Section 16712 for a position requiring a permit shall, not later than 95 days after the date fixed by the governing board of the agency for the commencement of his service, file with the county superintendent of schools a valid permit issued on or before such date, authorizing him to serve in the position for which he was employed, and must, not later than 95 days after the renewal thereof, file the renewed permit in the same manner.

SEC. 28. Section 16761 of the Education Code is amended to read:

16761. Notwithstanding any other provision of law, a high school

student or any other adult shall be selected by the governing board of a public or private agency as defined within Section 16712 to serve as nonteaching personnel as provided in Section 16721 to perform noninstructional work. A career ladder shall be utilized in the employment and promotion of such noninstructional personnel. Each such person shall have had a health examination made within the 12-month period preceding the date of employment. Each person shall also submit duplicate personal identification cards upon which shall appear legible fingerprints and a personal description of the applicant.

SEC. 29. Section 16762 of the Education Code is amended to read:

16762. The same fee as that prescribed for a credential provided in Section 13118 shall be charged for either the issuance or renewal of each child development permit authorizing service in the supervision and instruction of children in child development programs or authorizing service as a supervisor in a program.

SEC. 30. Section 16763 of the Education Code is amended to read:

16763. Child development permits issued to persons employed in positions pertaining to the supervision and instruction of children or supervision of a child development program may consist of two types, regular and provisional. Requirements for each type of permit shall be prescribed by the Commission for Teacher Preparation and Licensing.

SEC. 31. Section 16764 of the Education Code is amended to read:

16764. Service under a provisional permit shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a child development program. Such persons employed on the effective date of Chapter 1717 of the Statutes of 1965 and who have been employed for three consecutive years prior to the effective date of this legislation shall be deemed to have met the requirements for a regular permit and shall not be subject to the requirements of a provisional permit.

SEC. 32. Section 16765 of the Education Code is amended to read:

16765. Each county or city and county board of education may issue temporary certificates for the purpose of authorizing salary payments to child development employees whose child development permit applications are being processed. The applicant for such a temporary certificate shall make a statement under oath that he has duly filed his application for a permit together with the required fee and that to the best of his knowledge no reason exists why he should not be issued a permit. Such certificate shall be valid for not more than 90 schooldays and only until the permit originally requested is either issued or denied by the Commission for Teacher Preparation and Licensing.

SEC. 33. Section 16766 of the Education Code is amended to read:

16766. Each person employed by a public or private agency as defined in Section 16712 in a position requiring a child development permit for the supervision and instruction of children, or for service as a physician, dentist, or nurse, or in the supervision of the child development program, shall be deemed to be employed in a position requiring certification qualifications.

Each other person employed by an agency in a child development program under the provisions of this division shall be deemed for all purposes, including retirement, to be a person employed by the agency in a position not requiring certification qualifications.

The provisions of Section 13525 or Section 13526 of the Education Code, as enacted by the Legislature at its 1959 Regular Session, shall not apply to employees in child development programs.

A district may lay off an employee required to have such a permit at any time during the school year for lack of work or lack of funds or may provide for his employment for not to exceed 90 days in any one school year on an intermittent basis which shall not be deemed probationary service. The order of layoff shall be determined by length of service. The employee who has served the shortest time shall be laid off first, except that no permanent employee shall be laid off ahead of a probationary employee. A permanent employee who has been laid off shall hold reinstatement rights for a period of 39 months from the date of layoff.

Service performed prior to the effective date of Chapter 2 of the Statutes of 1959 shall not be included in computing the service required as a prerequisite for attainment of, or eligibility to, classification as a permanent child development employee.

A person who is employed by an agency as a probationary employee in a position requiring a child development permit for the supervision and instruction of children, or for service as a physician, dentist, or nurse, or in the supervision of the children's program and who has served in such a position for three complete consecutive school years as defined in Sections 13328 and 13464 of the Education Code, immediately prior to the effective date of Chapter 2 of the Statutes of 1959 may be dismissed only in accordance with the provisions of Section 13444.

Other persons who are employed as probationary employees in positions requiring such permits on or after the effective date of Chapter 2 of the Statutes of 1959 may be dismissed in accordance with the provisions of Section 13443.

SEC. 34. Section 16767 of the Education Code is amended to read:

16767. Any city, county, or city and county charter provision to the contrary notwithstanding, each person employed by an agency on July 1, 1955, and each person employed by an agency on September 11, 1957, who was theretofore excluded, solely by reason of the provisions of the predecessor of Section 16626 in effect prior

to July 1, 1955, or who was theretofore excluded solely by reason of the provisions of the predecessor of this section prior to September 11, 1957, from membership in any retirement system in which the agency participates or to which it contributes for the purpose of providing retirement rights and benefits for employees of the agency not employed in a status requisite for membership in the State Teachers' Retirement System, shall become a member of the retirement system from which he was excluded, on July 1, 1955, or on September 11, 1957, if theretofore excluded solely by reason of the provisions of the predecessor of this section in effect prior to that date. Every such member shall be entitled to credit for service in child development programs rendered prior to July 1, 1955, or prior to September 11, 1957, if therefore excluded, and before he became a member of the system, in the same manner as if he had not theretofore been excluded from membership in the retirement system, except that he shall not be required to make any contributions to the retirement system in respect to such service rendered prior to his membership, and all contributions necessary to provide benefits on account of such service shall be paid to the retirement system by the agency by which the member is employed. For the purpose of computing benefits for services rendered prior to July 1, 1955, as provided in this section, the average monthly salary earned by such employee in the fiscal year 1954–55 shall be used and for the purpose of computing benefits for service rendered between July 1, 1955, and September 11, 1957, for members receiving credit for service between those dates under the provisions of the predecessor of this section as amended by Chapter 1238 of the Statutes of 1957, the average monthly salary earned by such employees in the fiscal year 1956–57 shall be used.

Notwithstanding any other provisions of this section, for the purpose of computing benefits for any person retired on and after January 1, 1958, for services rendered prior to July 1, 1955, as provided in this section, and for the purpose of computing benefits for service rendered between July 1, 1955, and September 11, 1957, for members receiving credit for service between those dates under the provisions of this section, the "final compensation" of such person shall be computed in the same manner as for other employees who are included in the same retirement system and in the same class of retirement system members and who are not affected by this section. The amendment to this section enacted at the 1963 session shall be applied to increase the allowances, payable subsequent to October 1, 1963, in respect to those members who retired on or after July 1, 1955.

Notwithstanding any other provision of this section no increased allowance shall be paid, as authorized by this section, to any person who has retired between July 1, 1955, and October 1, 1963, unless the person to whom the increase would otherwise be payable mails written application for the increase to the appropriate retirement system prior to April 1, 1964.

SEC. 35. Section 16768 of the Education Code is amended to read:

16768. Any person who is employed in a child development program on October 1, 1965, and who was brought into membership in a retirement system on October 1, 1963, notwithstanding his prior election pursuant to Section 16767 or the predecessor of such Section 16767 as it read prior to October 1, 1963, not to be a member of such system, shall have the same rights under such system with respect to his service in child development programs as he would have had under Section 16767 or the predecessor of such section had he elected thereunder to be a member of such system.

SEC. 36. Section 16769 of the Education Code is amended to read:

16769. Every employee of a child development program who before his employment in such program was employed by the agency maintaining such program in a position entitling him to membership in, and who was a member of, the retirement system maintained by such district, and if such employee's contributions to such retirement system were returned to him when he was employed in the child development program, such employee shall have the right to elect, by written document filed with the Board of Administration, Public Employees' Retirement System, at any time within 90 days after the date upon which the notice of the right to make such election is mailed by such system, either to the member's latest address on file in the office of such system, or to the office of the governing board of such agency or agencies, and prior to the date of retirement, to contribute to such system, subject to minimum payments fixed by the Board of Administration, and in one or more sums, or in not to exceed 60 monthly payments, an amount which, when added to his accumulated contributions, including interest, transferred as required in paragraph (1) of subdivision (b) of Section 14696, will make a total amount equal to the accumulated contributions, including interest, which would have been credited to him in such plan, if he had never had his contributions returned to him. Such employee shall pay to the Public Employees' Retirement System interest on the unpaid balance of the amount payable to such system, beginning with the date of transfer, at the rate of interest currently used from time to time under the system. If such employee elects to make, and makes, such contributions and pays such interest, but not otherwise, he shall receive credit under such employees' system, as state service, for all prior service rendered while he was not a member of such plan.

SEC. 37. Section 16780 of the Education Code is repealed.

SEC. 38. Section 16783 of the Education Code is amended to read:

16783. Children regularly enrolled in a child development program who are absent on account of illness or quarantine shall be considered to be in regular attendance for the number of hours per day for which they are enrolled for the purpose of reporting

attendance for state apportionments, whenever the child development agency certifies that such absence was on account of illness or quarantine and is verified by the district in such manner as the Superintendent of Public Instruction shall require. All attendance shall be recorded and reported in accordance with the requirements of the Superintendent of Public Instruction.

SEC. 39. Section 16794 of the Education Code is amended to read:

16794. To the extent funds are available, federal reimbursement shall be claimed for any child receiving services in the infant care and development program.

SEC. 40. This act is a 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 implement the technical revisions in the Education Code necessary for conformity with federal social service regulations it is necessary that this act take effect at the earliest possible date.

CHAPTER 1467

An act to add Section 216.2 to the Streets and Highways Code, relating to state highways.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 216.2 is added to the Streets and Highways Code, to read:

216.2. The department shall undertake a noise abatement program pursuant to Section 216 at the Santa Teresita Parish School near Route 10 in the City of Los Angeles, notwithstanding the fact that the school was constructed after the initial construction contract for Route 10 was let.

This section shall not be construed to affect the eligibility of any other school for a noise abatement program of the department.

SEC. 2. Under existing law, the Santa Teresita Parish School near State Highway Route 10 in Los Angeles does not qualify for the school noise abatement program of the Department of Transportation. The traffic volume on Route 10 has increased so substantially from the time the school was constructed in 1949 that the freeway noise level in the school now measures above 50 decibels on the "A" scale, thus interfering with the learning process in the school. Because of the unique problem facing the Santa Teresita Parish School with respect to the noise level generated by traffic on Route 10, it is hereby declared that a general law cannot be made applicable and that the

enactment of this act as a special law is necessary for the solution of that problem.

CHAPTER 1468

An act to add Section 216.3 to the Streets and Highways Code, relating to highways.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 216.3 is added to the Streets and Highways Code, to read:

216.3. The department shall undertake a noise abatement program pursuant to Section 216 at the Soto Street School of the Los Angeles City Unified School District, notwithstanding the fact that the traffic noise level in the front portion of the school is produced by traffic on a city street.

SEC. 2. Under existing law, the front portion of the Soto Street School of the Los Angeles City Unified School District does not qualify for the school noise abatement program of the Department of Transportation. The traffic volume on Soto Street has increased so substantially from the time the school was constructed in 1934, primarily due to traffic entering nearby state freeways which were constructed after the school was built, that the noise level in the front portion of the school is nearly 80 decibels on the "A" scale. Because of the unique problem facing the Soto Street School, it is hereby declared that a general law cannot be made applicable and that the enactment of this act as a special law is necessary for the solution of that problem.

CHAPTER 1469

An act to amend Section 15503.5 of the Education Code, relating to school buildings, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 15503.5 of the Education Code is amended to read:

15503.5. "School building" as used in this article excludes any

building which is used exclusively for warehouse, storage, garage, or districtwide administrative office purposes, into which pupils are not required to enter, and off-campus buildings utilized by adult schools or community colleges for voluntary adult education courses or registered apprentice courses.

"School building" as used in this article excludes any building owned or occupied by a unified school district, high school district, or a county superintendent of schools which is used exclusively for adult education purposes.

If any building so excluded was not constructed in accordance with Article 4 (commencing with Section 15451) of this chapter and was not repaired, reconstructed, or replaced in accordance with this article, there shall be posted in a conspicuous place on such building a public notice stating that such building does not meet the structural standards imposed by law for earthquake safety.

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 that those buildings which this act would exempt from certain structural standards may be used during the 1976–77 school year, thus precluding undue disruption of existing adult education programs and financial hardship to school districts offering such programs, it is necessary that this act go into effect immediately.

CHAPTER 1470

An act relating to school buildings, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. The governing board of a school district which has leased facilities for a continuation high school for at least five years prior to July 1, 1976, may continue to use such facilities until the completion of replacement facilities or until June 15, 1980, whichever occurs first, and such leased facilities shall not be subject to Article 4 (commencing with Section 15451) or Article 5 (commencing with Section 15501) of of Chapter 1 of Division 11 of the Education Code.

This section shall apply only to a unified school district which had an average daily attendance of less than 7,000 in the 1975–76 fiscal year and in which the electors approved bonds for the purpose of constructing a permanent facility for a continuation high school on November 3, 1970.

This section shall remain in effect only until June 15, 1980, and as

of that date is repealed.

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 permit the use of at least some facilities which are above average in safety and highly functional to continue for a continuation high school until new facilities may be acquired under as yet to be completed master plans, and so avoid harm to presently functioning successful programs and their student participants, it is necessary that this act take effect immediately.

CHAPTER 1471

An act to amend Section 20017.9 of, and to add Section 22014.3 to, the Government Code, relating to the Public Employees' Retirement System.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 20017.9 of the Government Code is amended to read:

20017.9. "State safety member" shall also include persons employed to perform full-time active firefighting duties performed on the effective date of this section under the titles of "institution fire chief," "institution fireman," and "campus firefighter" by state agencies other than the Division of Forestry of the Department of Conservation. Persons employed under the title "campus firefighter" who were state miscellaneous members immediately prior to the operative date of the amendment adding "campus firefighters" to this section may elect to remain state miscellaneous members by filing written notice of their intent with the board no later than 90 days after the operative date of this section.

SEC. 2. Section 22014.3 is added to the Government Code, to read:

22014.3. "Fireman," as used in this part, also includes persons employed as a "campus firefighter" as set forth in Section 20017.9; provided, such designation is not contrary to any definition, ruling or regulation relating to the term "fireman" issued by the federal agency for the purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 3. This act shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons described as "campus firefighters" in Section 20017.9 within the definition of "fireman" is issued by the federal agency for purposes of Section

03373 285425 222

218(d) (5) (A) of the Social Security Act.

CHAPTER 1472

An act to amend Section 70127 of, and to add Sections 70128 and 73668 to, the Government Code, relating to court reporters, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 70127 of the Government Code is amended to read:

70127. Each regular official reporter shall be paid an annual salary of fourteen thousand dollars ($14,000). Adjustments in salary shall be made annually by the board of supervisors by an amount which is equivalent to the increase or decrease in the salary of related classes in the classified service of the county, and each pro tempore official reporter shall be paid per day the amounts prescribed in Article 9 (commencing with Section 69941), Chapter 5, Title 8, for the days he is actually on duty under the order of the court.

SEC. 2. Section 70128 is added to the Government Code, to read:

70128. (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 Humboldt 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 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.

(5) Such other information as the Judicial Council may require.

SEC. 3. Section 73668 is added to the Government Code, to read:

73668. (a) Official reporters shall be appointed by the judges of each municipal court district pursuant to the provisions of Section 72194 and shall serve during the pleasure of the judge to whom he

is assigned. The number of reporters so appointed shall not exceed at any one time the number of judges provided by law for the court.

(b) A judge of the municipal court may appoint a pro tempore official reporter to serve as the business of the court may require, when an official reporter is unavailable.

(c) The salaries of each regular official reporter and each pro tempore official reporter shall be as provided in Section 70127 of this code, except that such changes in compensation made pursuant to this section shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 4. 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 as 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 Humboldt County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in this county in view of the submitted request for an adjustment in the compensation provided to court reporters in such county.

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 other appropriation made by this act, because the provisions of this act are in accordance with the request of a local government entity which desired legislative authority to carry out any program and perform any service required by the act.

SEC. 6. If any provision of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of this act shall be void, and to this end the provisions of this act are inseverable.

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:

A very high rate of turnover has been experienced among court reporters in Humboldt County due to inadequate salaries. In order to alleviate the problem at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 1473

An act to amend Section 1760.6 of the Health and Safety Code, relating to emergency medical services.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 1760.6 of the Health and Safety Code is amended to read:

1760.6. The Advisory Committee on Emergency Medical Services is hereby created and established in the State Department of Health. The committee shall advise the director on regulations to be adopted by the department for implementation of this article. The committee may give the director general advice in regard to communications, medical equipment, training, personnel, facilities, and other subjects relating to emergency medical services. The committee shall be composed of 18 members. The Governor shall appoint 16 members as follows: one representative of a private ambulance company, one hospital administrator, three physicians and surgeons, two of whom are primarily engaged in the practice of emergency medical care, and one of whom is in private practice, three licensed professional nurses who are licensed pursuant to the provisions of Chapter 6 (commencing with Section 2700) or Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code, two of whom are primarily engaged as an emergency registered nurse, one county health officer, one mobile intensive care paramedic, as defined in subdivision (a) of Section 1481, two public members, one of whom has been active in community efforts to improve emergency medical services, one representative of a public emergency medical services agency, one chief of a city or county fire department or fire protection district, one representative of the Department of the California Highway Patrol, and one representative of the State Department of Health, who shall serve as chairman.

The Senate Rules Committee and the Speaker of the Assembly shall each appoint one public member.

The members of the advisory committee shall receive no compensation for their services, but shall be reimbursed for their actual, necessary traveling and other expenses incurred in the discharge of their duties.

The committee shall meet on the call of the chairman.

CHAPTER 1474

An act to add Section 74694 to the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 74694 is added to the Government Code, to read:

74694. The fee for filing the complaint, or other first paper is thirteen dollars ($13), to include all proceedings before trial and all services to be performed in a judgment by default or for the trial of either a question of law or fact, including all affidavits, swearing witnesses and jury, and entry of judgment.

The fee for filing the first paper on behalf of any party, other than plaintiff, is eight dollars ($8), for each such party

The fees provided herein shall be in lieu of those required by Section 72055 and 72056 of the Government Code.

CHAPTER 1475

An act to amend Sections 73674, 73676, 73677, 74700, 74701, 74702, 74702.5, 74703, 74704, 74705, 74708, 74710, 74843, 74844, 74845, and 74847 of, to amend the heading of Article 38 (commencing with Section 74948) of Chapter 10 of Title 8 of, to amend Sections 74948, 74949, 74950, 74951, 74952, 74953, 74954, 74955, and 74956 of, and to add Section 74954.5 to, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 73674 of the Government Code is amended to read:

73674. The clerk may appoint: (a) one chief deputy clerk; (b) one deputy clerk V; (c) four deputy clerks IV; (d) one deputy clerk III; (e) three courtroom clerks; (f) one account clerk III; (g) 17 deputy clerks II or deputy clerks I as may be determined by the judge with the concurrence of the board of supervisors; (h) one legal secretary. Each of these employees shall receive the salary specified in Section 73677 for his classification.

SEC. 2. 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 schedule found in the Personnel and Salary

Resolution of the County of Solano in effect on July 1, 1974, as supplemented by the Solano County Alphabetical Listing of Classes and Salaries effective June 29, 1975, and as may be amended for fiscal year 1976–77, shall apply.

Any salary change, resulting from an amendment of such schedule and listing, shall remain effective only until January 1 of the second year following the calendar year in which such change is made.

SEC. 3. 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 followed in Section 73676.

(a) Deputy clerk I	Range 191
(b) Deputy clerk II	Range 251
(c) Legal secretary	Range 290
(d) Deputy clerk III	Range 291
(e) Account clerk III	Range 311
(f) Municipal courtroom clerk	Range 325
(g) Deputy clerk IV	Range 345
(h) Deputy clerk V	Range 385
(i) Chief deputy clerk	Range 445
(j) Clerk	Range 540

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. 3.1. Section 74700 of the Government Code is amended to read:

74700. This article applies to the municipal court district which embraces all of Sonoma County and is known as the Sonoma County

Municipal Court. This article establishes a uniform compensation schedule which shall apply to the Sonoma County Municipal Court and provides the personnel for such court.

SEC. 3.2. Section 74701 of the Government Code is amended to read:

74701. Judges of the Sonoma County Municipal Court shall be compensated in accordance with the uniform salary statutes.

SEC. 3.3. Section 74702 of the Government Code is amended to read:

74702. There shall be one clerk who shall receive a salary equivalent to range 735 of the salary schedule.

SEC. 3.4. 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 equivalent to range 834 of the salary schedule.

SEC. 3.5. 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	481
Executive secretary	481
Deputy jury commissioner	481
Deputy clerk IV	429
Clerk-typist IV	429
Account clerk II	390
Deputy clerk III	381
Clerk-typist III	381
Deputy clerk II	333
Clerk-typist II	333
Deputy clerk I	303
Clerk-typist I	303

SEC. 3.6. 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, 1976, 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. 3.7. 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 adjustment shall remain effective only until January 1 of the second year following the calendar year in which such adjustment is made.

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
Deputy jury commissioner	Deputy jury commissioner
Account clerk II	Account clerk II

SEC. 3.8. 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 IV.

(3) Twelve deputy clerks III.

(4) Twelve deputy clerks II.

(5) One account clerk II.

(6) One clerk-typist III.

(7) One deputy jury commissioner.

SEC. 3.9. Section 74710 of the Government Code is amended to read:

74710. No provision is made for marshal or deputy marshals in the Sonoma County Municipal Court and no compensation is established for any such marshal and deputy marshal positions. In lieu thereof, the Sheriff of the County of Sonoma shall be ex officio marshal and shall serve the court without additional compensation.

SEC. 4. Section 74843 of the Government Code is amended to read:

74843. The clerk may appoint:

(a) One chief deputy clerk.

(b) One deputy clerk V.

(c) Two deputy clerks IV.

(d) Two municipal courtroom clerks.

(e) One account clerk III.

(f) Two deputy clerks III.

(g) One legal secretary.

(h) Fourteen 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. 5. Section 74844 of the Government Code is amended to read:

74844. There shall be one marshal who shall receive one thousand six hundred thirty-eight dollars ($1,638) monthly, provided, however, that in order to maintain comparability with the salaries of the elected and appointed officials of the County of Solano whose salaries are set by the board of supervisors, the judges, with the concurrence of the board of supervisors, may establish a salary not to exceed two thousand dollars ($2,000) per month. Any such salary adjustment shall remain effective only until January 1 of the second year following the calendar year in which such adjustment is made.

SEC. 6. 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) One deputy marshal—female.

(d) One clerk II.

(e) One sergeant-marshal.

(f) One account clerk I or II.

Each of these employees shall receive the salary specified in Section 74847 for his classification.

SEC. 7. 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) Deputy clerk I	191
(b) Clerk II	212
(c) Account clerk I	212
(d) Deputy clerk II	251
(e) Account clerk II	251
(f) Legal secretary	290
(g) Deputy clerk III	291
(h) Deputy marshal—female	301
(i) Account clerk III	311
(j) Municipal courtroom clerk	325
(k) Deputy clerk IV	345
(*l*) Deputy clerk V	385
(m) Deputy marshal I	425
(n) Deputy marshal II	445
(o) Chief deputy clerk	445
(p) Chief deputy marshal-office supervisor	451
(q) Sergeant-marshal	500
(r) Clerk	540

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. 8. The heading of Article 38 (commencing with Section 74948) of Chapter 10 of Title 8 of the Government Code is amended to read:

Article 38. Napa County

SEC. 9. Section 74948 of the Government Code is amended to read:

74948. This article applies to the municipal court district which embraces the entire County of Napa, which court shall be known as the Municipal Court for the County of Napa.

SEC. 10. Section 74949 of the Government Code is amended to read:

74949. There shall be two judges in the Municipal Court for the County of Napa. The two judges shall select one of them to be presiding judge of the court. Thereafter, the duties of the presiding judge of the court shall alternate annually between the two judges.

SEC. 11. Section 74950 of the Government Code is amended to read:

74950. Facilities for the court shall be maintained in the City of Napa, the City of Saint Helena, the City of Calistoga, and in such other locations within the County of Napa as are designated by the board of supervisors pursuant to the provisions of Section 71342. The court shall hold sessions at each facility as business requires.

SEC. 12. Section 74951 of the Government Code is amended to read:

74951. All officers and employees of the Municipal Court for the County of Napa shall be entitled to the privileges afforded county employees of the County of Napa generally, relative to sick leave, vacation and other benefits. All such officers and employees may be appointed, promoted, demoted, reclassified, terminated or transferred, or their status otherwise adjusted in the same manner and with the same effect as is provided by the personnel and salary ordinances of the County of Napa in effect at the time of any such adjustment in status.

SEC. 13. Section 74952 of the Government Code is amended to read:

74952. (a) No provision is made for a marshal or deputy marshals in the Municipal Court for the County of Napa and no compensation is established for any such marshal and deputy marshal positions. In lieu thereof, the Sheriff of the County of Napa shall be ex officio marshal.

(b) The sheriff may appoint three individuals to function as ex officio deputy marshals, and who shall also serve the municipal court without additional compensation.

(c) All fees collected by the sheriff or his deputies for services to the municipal court shall be deposited with the county treasurer-tax collector.

SEC. 14. Section 74953 of the Government Code is amended to read:

74953. Official reporters of the Municipal Court for the County of Napa shall be appointed pursuant to Section 72194. For their services in reporting testimony and proceedings in court, they shall receive the fees provided in Section 72195.

SEC. 15. Section 74954 of the Government Code is amended to read:

74954. (a) Whenever a reference is made to a numbered salary range according to the standard salary schedule in any section of this article, the following schedule of monthly salaries shall apply:

Range No.	Step A	Step B	Step C	Step D	Step E
15	519	544	569	596	623
15.5	531	557	582	610	638
16	544	569	596	623	653
16.5	557	582	610	638	668
17	569	596	623	653	684
17.5	582	610	638	668	700
18	596	623	653	684	717
18.5	610	638	668	700	734
19	623	653	684	717	750
19.5	638	668	700	734	769
20	653	684	717	750	787
20.5	668	700	734	769	805
21	684	717	750	787	824
21.5	700	734	769	805	843
22	717	750	787	824	863
22.5	734	769	805	843	883
23	750	787	824	863	904
23.5	769	805	843	883	925
24	787	824	863	904	948
24.5	805	843	883	925	970
25	824	863	904	948	993
25.5	843	883	925	970	1,017
26	863	904	948	993	1,041
26.5	883	925	970	1,017	1,066
27	904	948	993	1,041	1,092
27.5	925	970	1,017	1,066	1,118
28	948	993	1,041	1,092	1,145
28.5	970	1,017	1,066	1,118	1,172
29	993	1,041	1,092	1,145	1,200
29.5	1,017	1,066	1,118	1,172	1,229
30	1,041	1,092	1,145	1,200	1,258
30.5	1,066	1,118	1,172	1,229	1,289
31	1,092	1,145	1,200	1,258	1,320
31.5	1,118	1,172	1,229	1,289	1,352
32	1,145	1,200	1,258	1,320	1,384
32.5	1,172	1,229	1,289	1,352	1,418

33	1,200	1,258	1,320	1,384	1,452
33.5	1,229	1,289	1,352	1,418	1,487
34	1,258	1,320	1,384	1,452	1,523
34.5	1,289	1,352	1,418	1,487	1,560
35	1,320	1,384	1,452	1,523	1,597

(b) In the event the Board of Supervisors of the County of Napa amends the resolution establishing salary ranges and monthly salary rates on the standard salary schedule for the County of Napa, effective on the date of this act, or adopts a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for the municipal court employees under this article 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 change is made.

SEC. 16. Section 74954.5 is added to the Government Code, to read:

74954.5. (a) Whenever a reference is made to a numbered salary range according to the management and nonclassified personnel salary schedule in any section of this article, the following schedule of monthly salaries shall apply:

Range No		Step A	Step B	Step C	Step D	Step E
70	950	998	1,048	1,100	1,155	
70.5	974	1,023	1,074	1,127	1,184	
71	998	1,048	1,100	1,155	1,213	
71.5	1,023	1,074	1,127	1,184	1,243	
72	1,048	1,100	1,155	1,213	1,274	
72.5	1,074	1,127	1,184	1,243	1,306	
73	1,100	1,155	1,213	1,274	1,338	
73.5	1,127	1,184	1,243	1,306	1,371	
74	1,155	1,213	1,274	1,338	1,405	
74.5	1,184	1,243	1,306	1,371	1,440	
75	1,213	1,274	1,338	1,405	1,475	
75.5	1,243	1,306	1,371	1,440	1,512	
76	1,274	1,338	1,405	1,475	1,549	
76.5	1,306	1,371	1,440	1,512	1,587	
77	1,338	1,405	1,475	1,549	1,626	
77.5	1,371	1,440	1,512	1,587	1,666	
78	1,405	1,475	1,549	1,626	1,707	
78.5	1,440	1,512	1,587	1,666	1,750	
79	1,475	1,549	1,626	1,707	1,792	
79.5	1,512	1,587	1,666	1,750	1,837	
80	1,549	1,626	1,707	1,792	1,882	
80.5	1,587	1,666	1,750	1,837	1,929	
81	1,626	1,707	1,792	1,882	1,976	
81.5	1,666	1,750	1,837	1,929	2,025	
82	1,707	1,792	1,882	1,976	2,075	
82.5	1,750	1,837	1,929	2,025	2,126	

83	1,792	1,882	1,976	2,075	2,178
83.5	1,837	1,929	2,025	2,126	2,232
84	1,882	1,976	2,075	2,178	2,287
84.5	1,929	2,025	2,126	2,232	2,344
85	1,976	2,075	2,178	2,287	2,401

(b) In the event the Board of Supervisors of the County of Napa amends the resolution establishing salary ranges and monthly salary rates for the management and nonclassified personnel of the County of Napa, or adopts a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for the municipal court management and nonclassified personnel under this article 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 change is made.

SEC. 17. Section 74955 of the Government Code is amended to read:

74955. There shall be one clerk who shall also be the court administrator, and who shall receive the monthly salary provided for salary range No. 74 in the salary schedule for management and nonclassified personnel. In addition to any other duties imposed by law, the clerk shall, at the direction of the presiding judge, perform the following duties:

(a) To direct and coordinate the nonjudicial activities of the court;

(b) To prepare and administer the budget of the court;

(c) To coordinate with other appropriate county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for the operation of the court;

(d) 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;

(e) To serve as liaison for the court with other persons, committees, boards, groups and associations as directed by the presiding judge.

SEC. 18. Section 74956 of the Government Code is amended to read:

74956. (a) There shall also be the following court employee positions, whose numbers and salary range on the standard salary schedule of the County of Napa shall be as specified:

Position title	Number of positions	Salary range
Assistant clerk of the court	1	28
Senior municipal court clerk	3	24
Municipal court clerk	2	22
Account clerk III	1	22
Deputy clerk III	5	20
Deputy clerk II	4	18

(b) Each such person employed on the effective date of this article in the office of the clerk of the municipal court shall receive credit for prior continuous service in office, including service in a court superseded upon the establishment of the municipal court.

SEC. 19. 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 requests of local governmental entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1476

An act to add Section 31479.2 to the Government Code, relating to the County Employees' Retirement Law of 1937.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 31479.2 is added to the Government Code, to read:

31479.2. "Public service" also means service rendered as an officer or employee of a department or agency of the District of Columbia for which the officer or employee received compensation and with respect to which he is not entitled to receive credit in any retirement system supported wholly or in part by public funds after he becomes a member of this system.

CHAPTER 1477

An act relating to the computation of average daily attendance of public schools during the Bicentennial year of 1976, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Notwithstanding the provisions of Chapter 2 (commencing with Section 10951) and Chapter 6 (commencing with Section 12101) of Division 9 of the Education Code or any other provisions of law to the contrary, the Superintendent of Public Instruction may for the entire calendar year of 1976, commencing on January 1 and ending on December 31, allow school districts to excuse pupils enrolled in full-time day schools from attendance upon school during any schoolday which falls in the 1976 calendar year to permit such pupils to participate in one or more Bicentennial events or celebrations commemorating the 200th anniversary of the founding of our country. Not more than four days may be excused pursuant to this section for any pupil during the 1976 calendar year, and they shall be counted for apportionment purposes within Section 1081.5 as an authorized field trip or excursion. Any absence authorized pursuant to this section shall not be deemed an absence for purposes of computing the attendance of the pupil.

The Superintendent of Public Instruction shall prescribe the necessary procedures to be followed in recording and reporting absences authorized pursuant to 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:

Nineteen seventy-six is the 200th anniversary of the founding of our country. In order that school districts may allow pupils enrolled in the schools under their jurisdiction to take part in Bicentennial events and celebrations without the resultant loss of state support, it is essential that this act take immediate effect.

CHAPTER 1478

An act to amend Section 5207 of the Education Code, relating to public schools.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 5207 of the Education Code is amended to read:

5207. The governing board of any elementary, high school, or unified school district or any county superintendent of schools may maintain classes on Saturday or Sunday, or both.

Such classes may include, but are not limited to, continuation classes, special day classes for mentally gifted minors, and the programs of a regional occupational center or regional occupational program.

Except as otherwise provided in this code, the attendance of any pupil in a class or program held on a Saturday or Sunday shall not result in the crediting of more than five days of attendance for such pupil per week.

Attendance at classes conducted on Saturday or Sunday, or both, shall be at the election of the pupil or, in the case of a minor pupil, the parent or guardian of the pupil.

Except as otherwise provided in this code, any class which is offered on a Saturday or Sunday shall be one offered during the regular Monday-through-Friday school week.

The voluntary attendance of pupils in approved programs for mentally gifted minors, as defined in Section 6421, in special educational activities conducted on Saturday or Sunday shall not be included in the computation of the average daily attendance of the district.

CHAPTER 1479

An act to add Section 22013.6 to the Government Code, relating to social security.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 22013.6 is added to the Government Code, to read:

22013.6. "Policeman" as used in this part also includes persons employed in positions set forth in Section 20021.8 and Section 31469.4; provided such designation is not contrary to any definition, ruling, or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d) (5) (A) of the Social Security Act.

This section shall be operative only in counties which elect to terminate the social security coverage of county probation officers and juvenile hall employees in that county and elect to include such officers and employees within the safety membership retirement category.

SEC. 2. This act shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons employed in positions set forth in Sections 20021.8 and 31469.4 within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

CHAPTER 1480

An act to amend Sections 25208 and 31030 of the Water Code, to amend Section 51 of the Desert Water Agency Law (Chapter 1069 of the Statutes of 1961), and to add Section 33.1 to the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951), relating to water districts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976]

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

SECTION 1. Section 25208 of the Water Code is amended to read:

25208. The bonds shall bear interest at a rate not to exceed 8 percent per year to be fixed by the board, except that, if, before the issuance of the bonds, the board determines, to the best of its knowledge and belief, that the interest on the bonds will be subject to federal income taxation under then existing law, the bonds may bear interest at a rate or rates not exceeding 10 percent per year to be fixed by the board.

SEC. 2. Section 31030 of the Water Code is amended to read:

31030. (a) The Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) is applicable to districts for the purpose of providing funds for the acquisition, construction, improving or financing of any public improvement authorized by this division which is not inconsistent with the provisions of Section 54310 of the Government Code. However, notwithstanding the provisions of Sections 54382, 54400, and 54402 of the Government Code and any other provisions of law, the board may determine and provide, in any resolution providing for the issuance of such revenue bonds , for the following:

(1) For maturity dates of the bonds not exceeding 50 years from their respective dates.

(2) If, before the issuance of the bonds, the board determines, to the best of its knowledge and belief, that the interest on the bonds will be subject to federal income taxation under then existing law, for interest on the bonds at a rate or rates not exceeding 10 percent a year, payable annually or semiannually.

(b) The powers conferred upon districts by this section are in addition to the powers conferred by Article 7 (commencing with Section 31480) of Chapter 2 of Part 6 of this division and none of the provisions of such Article 7 are applicable to proceedings taken by a district pursuant to this section.

(c) The board may issue revenue bonds under the Revenue Bond Law of 1941 on behalf of any portion of the district created as an improvement district pursuant to this division and any election for

the issuance of such revenue bonds shall be limited to the area of such improvement district. If revenue bonds are so issued on behalf of an improvement district:

(1) No proceeds of such revenue bonds shall be used to finance public improvements to provide service outside the service area of the improvement district.

(2) Only revenues which are derived from rates or charges for the providing of service within the service area of the improvement district shall be pledged to or used to pay such revenue bonds.

(d) As used in this section, the words "service area of the improvement district" are defined to mean the territory of the improvement district as it existed at the time of the bond election plus lands outside the improvement district, if any, being served at the time of the bond election by the improvement district facilities plus additional territory, if any, annexed to the improvement district as the same existed at the time of the bond election, not exceeding in the aggregate 40 percent by area of the improvement district as the same existed at the time of the bond election.

SEC. 3. Section 51 of the Desert Water Agency Law (Chapter 1069 of the Statutes of 1961) is amended to read:

Sec. 51. The agency may issue negotiable promissory notes pursuant to this section, bearing interest at a rate not to exceed 8 percent per annum, for the purpose of acquiring funds to finance the construction or acquisition of administrative offices, construction headquarters, commercial offices, or facilities for similar agency purposes and for the acquisition of land for agency purposes. The maturity of such promissory notes shall not be later than 10 years from the date thereof. The total aggregate amount of such notes outstanding at any one time may be at least equal to fifty thousand dollars ($50,000), but shall not exceed the lesser of either five hundred thousand dollars ($500,000) or 1 percent of the assessed valuation of the taxable property in the agency or, if the assessed valuation is not obtainable, 1 percent of the county auditor's estimate of the assessed valuation of the taxable property in the agency evidenced by his certificate. Promissory notes issued pursuant to subdivision 11 of Section 15 may be disregarded in computing the aggregate amount of notes that may be issued pursuant to this section.

SEC. 4. Section 33.1 is added to the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951), to read:

Sec. 33.1. Notwithstanding the provisions of Sections 54382 and 54402 of the Government Code and any other provisions of law, the board may determine and provide, in any resolution providing for the issuance of bonds pursuant to the Revenue Bond Law of 1941 (commencing with Section 54300 of the Government Code), for interest on the bonds at a rate or rates not exceeding 10 percent a year, payable annually or semiannually, if, before the issuance of the bonds, the board determines, to the best of its knowledge and belief, that the interest on the bonds will be subject to federal income

taxation under then existing law.

CHAPTER 1481

An act to add Section 73095 to the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 73095 is added to the Government Code, to read:

73095. The judges of the Oakland-Piedmont Municipal Court may appoint one official court interpreter. The individual appointed pursuant to this section shall hold office at the pleasure of the judges and shall receive an annual salary including additional compensation for bilingual skills, and all other benefits, in the same amount as are provided for the class of deputy clerk II of the Oakland-Piedmont Municipal Court.

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 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.

CHAPTER 1482

An act to amend Sections 69894.1, 72608, 72640, 72645, 72646, and 72649 of, and to add Sections 68527 and 69894.4 to, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 68527 is added to the Government Code, to read:

68527. (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 the Superior Court of Los Angeles County.

(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. 2. Section 69894.1 of the Government Code, as amended by Chapter 1400 of the Statutes of 1974, is amended to read:

69894.1. In the County of Los Angeles a majority of the judges of the superior court may appoint the following officers and employees whose salaries shall be:

Number	Title	Schedule
3	Accounting clerk	21H
3	Accounting technician	27A
3	Administrative assistant I	30L
3	Administrative assistant II	40D
22	Administrative judicial secretary	32J
6	Administrative secretary	29J
1	Assistant criminal courts coordinator	44A
1	Assistant director, family counseling services	54D
1	Assistant jury commissioner	52C
1	Assistant juvenile courts coordinator	44A
1	Assistant supervising counselor, mental health	50A
1	Assistant supervising juvenile traffic hearing officer	51D
1	Assistant supervising probate attorney	66D
1	Assistant to the executive officer	55C
3	Calendar clerk	25L
2	Chief clerk	36J
1	Chief, personnel division	54D
9	Child custody investigator	41F
1	Civil courts coordinator	54D
20	Clerk I	13D
100	Clerk II	17D
40	Clerk III	22L

2	Clerk IV	30H
40	Counselor	40D
61	Court commissioner	FA $38,504
260	Court reporter	46H
1	Court reporter assignment clerk	29J
1	Court statistician	38A
1	Criminal courts coordinator	54D
1	Director, administrative services	58D
1	Director, family counseling services	59D
1	Director, research and development	60D
1	Duplicating and mail unit supervisor	27D
1	Executive assistant	49C
1	Executive officer	E45
1	Finance officer	48C
1	Graphic arts aid	26A
1	Head, child custody investigations	49G
1	Head, office services	39J
1	Head, property services	42L
1	Head, recognizance services	52J
1	Head, staff services	55C
2	Intermediate supervising clerk	25J
13	Interpreter	26L
20	Judicial secretary	25J
1	Jury commissioner	59D
8	Jury interviewer	30L
1	Jury qualification supervisor	36J
1	Juvenile courts coordinator	54D
19	Law clerk	40B
5	Legal research assistant	29K
1	Light vehicle driver	19J
1	Offset duplicator operator	21D
1	Payroll records supervisor	31C
1	Personnel officer	49D
1	Principal counselor	47L
17	Probate attorney	62C
9	Probate checker	28J
1	Probate commissioner	70D
2	Procurement assistant	28J
5	Property custodian-auditor	24J
1	Psychiatric physician	FD $145
10	Referee	66D
1	Research attorney	56C
15	Secretary I	23J

8	Secretary II	27J
1	Secretary to executive officer	37D
1	Secretary to presiding judge	41D
1	Senior child custody investigator	44C
12	Senior counselor	44C
3	Senior counselor, own recognizance	46C
1	Senior departmental personnel technician	45D
18	Senior family counselor	50E
33	Senior judicial secretary	27J
25	Senior juvenile traffic hearing officer	47A
1	Senior offset duplicator operator	25D
1	Senior property custodian-auditor	30H
1	Senior referee	FA $38,504
1	Special assistant	52C
2	Statistical clerk	18J
1	Supervising administrative assistant II	49C
1	Supervising clerk	22L
1	Supervising counselor, mental health	59D
1	Supervising juvenile traffic hearing officer	56D
2	Supervising law clerk	42B
1	Supply clerk	24D

Whenever a reference to numbered salary schedules and notes is made in this section, those found in the salary ordinance of the County of Los Angeles shall apply. Whenever the compensation of superior court judges is adjusted, the flat-rate salaries for court commissioners and senior referees shall be adjusted to maintain the salary relationship of 85 percent of the annual compensation of superior court judges.

Reduction of the schedule applicable to a class by reason of the adoption of this salary plan or subsequent reclassification of positions for organizational purposes shall not result in a lower salary rate to incumbents of such positions. The court is authorized to regulate by rule the status of employees so affected.

All personnel appointed pursuant to this article shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

SEC. 3. Section 69894.4 is added to the Government Code, to read:

69894.4. Notwithstanding the provisions of Section 6984.1, in the

County of Los Angeles a majority of the judges of the superior court may appoint 260 court reporters, each of whom shall receive a salary equivalent to the schedule designation 50L in the salary ordinance of the county. Court reporters shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

Reduction of the schedule applicable to court reporters by reason of the adoption of this salary plan or subsequent reclassification of positions for organizational purposes shall not result in a lower salary rate to incumbent court reporters. The court is authorized to regulate by rule the status of employees so affected.

SEC. 4. Section 72608 of the Government Code is amended to read:

72608. Certain classes of positions prescribed in Articles 2 (commencing with Section 72640), 3 (commencing with Section 72700) and 4 (commencing with Section 72750) of this chapter are deemed to be equivalent in job and salary level to position classifications included in the Salary Ordinance of Los Angeles County. In order to maintain parity of compensation and employee rights and benefits between such officers and attachés of municipal courts and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee rights and benefits for related classes of court positions, the provisions of this section shall govern salary adjustments and employee rights and benefits for officers and attachés of municipal courts in Los Angeles County.

On the effective date of any amendment to such ordinance adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto and each other class of court position indented immediately thereunder shall be adjusted an equivalent number of schedules in the salary schedule to which such position is attached. In no event shall any one such salary adjustment exceed eight schedule numbers. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number.

Table of Positions

Court classification	County classification
Officers Series	
Inspector	Inspector
Marshal	
Assistant marshal	
Captain	Captain
Lieutenant	Lieutenant

Sergeant	Sergeant
Deputy marshal III Deputy marshal IV	Deputy sheriff III
Deputy marshal II	Deputy sheriff II
Deputy marshal I	Deputy sheriff I
Deputy marshal-matron	Corrections officer

Program Analysis Series

Chief program analyst	Deputy county counsel III
Program analyst II	Deputy county counsel II
Program analyst I	Deputy county counsel II
Legal research assistant	Law clerk

Administrative—Branch Supervisor—Courtroom Series

All positions subject to civil service provisions enumerated in Articles 2, 3, and 4 not listed in this table, except those specified in Section 72704.5	Superior court clerk

Administrative—Services Series

Head, administrative services, marshal Senior staff assistant, marshal Staff assistant, marshal	Administrative analyst

Stenographic Series

Intermediate stenographic secretary Judicial secretary Administrative secretary, presiding judge Administrative secretary, clerk Administrative secretary, marshal Stenographic secretary Senior stenographic secretary Stenographic secretary, municipal courts Senior stenographer, municipal courts	Intermediate stenographic secretary
Stenographer, municipal courts	Legal stenographer

Clerical Series

Deputy clerk II Deputy clerk I Deputy clerk III Administrative clerk Typist-clerk Deputy clerk-custody officer Senior payroll clerk, marshal	Intermediate typist-clerk

Storekeeper Series

Supply and reproduction supervisor Supply and reproduction assistant	Storekeeper III

Salary adjustments made pursuant to this section shall be effective until January 1 of the second year following the calendar year in which such adjustments are made.

Officers and attachés of municipal courts in Los Angeles County shall be entitled to all employee rights and benefits including, but not limited to, paid medical plans, parking and cafeteria privileges, longevity pay, shooting allowance, uniform and equipment allowance, and the same rights to meet with those entities which prescribe their compensation, that are provided for or made applicable to the equivalent Los Angeles County employee classification.

SEC. 5. Section 72640 of the Government Code is amended to read:

72640. There shall be one marshal for all municipal courts established in judicial districts in Los Angeles County, who shall be appointed pursuant to this article and who shall receive the monthly compensation specified in Schedule 74F.

SEC. 6. Section 72645 of the Government Code is amended to read:

72645. The marshal shall appoint:

(a) One assistant marshal who shall receive the monthly compensation specified in Schedule 70F.

Upon the occurrence of a vacancy, any succeeding appointment to this position may be made by the marshal at his sole discretion. At such time and thereafter, the provisions of Section 72649 shall not be applicable to the appointment to nor removal of a person from this position, but all other provisions of Section 72649 shall be effective. The marshal shall make such appointment from the peace officer members of his office of the rank of lieutenant or higher and the appointee shall serve solely at the pleasure of the marshal. Upon

removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held by him prior to his appointment to the position of assistant marshal.

(b) Three inspectors, each of whom shall receive monthly compensation as provided in Schedule 64F.

(c) Eleven captains, each of whom shall receive monthly compensation as provided in Schedule 58F.

(d) Thirty lieutenants, each of whom shall receive monthly compensation as provided in Schedule 52L.

(e) Forty sergeants, each of whom shall receive monthly compensation as provided in Schedule 46G.

(f) Fifty-four deputy marshals IV, each of whom shall receive monthly compensation as provided in Schedule 40D.

(g) One hundred twelve deputy marshals III, each of whom shall receive monthly compensation as provided in Schedule 38D.

(h) Two hundred seventy-six deputy marshals II, each of whom shall receive monthly compensation as provided in Schedule 36C, and who shall have completed one full year of service and possess a P.O.S.T. specialized basic certificate.

(i) Forty-nine deputy marshals I, each of whom shall receive monthly compensation as provided in Schedule 34C. Appointments to such positions shall be made from civil service lists resulting from open competitive examinations, provided that notwithstanding the provisions of Section 72649, such deputies shall be subject to a 12-month period of probation.

(j) Thirty deputy marshal-matrons, each of whom shall receive monthly compensation as provided in Schedule 29B, and who shall have completed a course of training which meets the requirements of the P.O.S.T. Commission for a specialized law enforcement basic certificate.

SEC. 7. Section 72646 of the Government Code is amended to read:

72646. The marshal shall appoint:

(a) One head, administrative services, marshal, who shall receive compensation as provided in Schedule 51D.

(b) One senior staff assistant, marshal, who shall receive compensation as provided in Schedule 44D.

(c) One administrative secretary, marshal, who shall receive monthly compensation as provided in Schedule 31L. Appointment to said position shall be at step 3 of said schedule.

(d) Two staff assistants, marshal, each of whom shall receive compensation as provided in Schedule 34F.

(e) One senior stenographic secretary who shall receive monthly compensation as provided in Schedule 30L.

(f) Two principal clerks, each of whom shall receive monthly compensation as provided in Schedule 29H.

(g) One supply and reproduction supervisor who shall receive monthly compensation as provided in Schedule 28L.

(h) Two intermediate stenographic secretaries, each of whom shall receive monthly compensation as provided in Schedule 25L.

(i) Ten administrative clerks, each of whom shall receive monthly compensation as provided in Schedule 25D.

(j) Thirty deputy clerk-custody officers, each of whom shall receive monthly compensation as provided in Schedule 24D.

(k) One senior payroll clerk, marshal, who shall receive monthly compensation as provided in Schedule 24D.

(*l*) One supply and reproduction assistant who shall receive monthly compensation as provided in Schedule 22L.

(m) Fifty-nine deputy clerks, grade III, each of whom shall receive monthly compensation as provided in Schedule 21E.

(n) Three stenographic secretaries, each of whom shall receive monthly compensation as provided in Schedule 19L.

(o) Ninety deputy clerks, grade II, each of whom shall receive monthly compensation as provided in Schedule 15F.

(p) Twenty-five deputy clerks, grade I, each of whom shall receive monthly compensation as provided in Schedule 10C. Appointments to such positions shall be at step 4 of such schedule.

(q) Such deputies who shall be keepers, as may be reasonably required pursuant to law, at the fee allowed by law for keeping property.

SEC. 8. Section 72649 of the Government Code is amended to read:

72649. Except where this title otherwise provides, all deputies and other employees of the Marshal of Municipal Courts, Los Angeles County, may be appointed, removed, suspended, or discharged for cause by the said marshal, subject in such appointment, removal, suspension, or discharge to all civil service provisions applicable to the personnel of the office of Sheriff, Los Angeles County:

(a) Whenever reference to a numbered salary schedule is made in any section of this article, the schedule found in the Salary Ordinance of the County of Los Angeles shall apply.

(b) Unless otherwise specifically provided, each person appointed to a position, the compensation of which is fixed by reference to the salary schedule, shall, for the first six months of service, receive monthly the rate of compensation specified in the first step of the salary schedule for the position to which he is appointed. Upon the first day of the month following six months' continuous service in a class, the initial rate of compensation of such person shall be increased to the next higher step of the salary schedule for the position occupied. On and after the first day of the month following each ensuing 12 months of such service such compensation shall be increased to the rate specified in the next higher step of the salary schedule for the position occupied until such compensation equals the sum specified in step 5 of such schedule.

(c) When any person in the service of the court or of the marshal is appointed or promoted to another office or position in such service

compensated at a higher numbered schedule, he shall receive step 1 of such schedule if step 1 is at least one step higher than the salary received in the office or position relinquished; but if not, he shall receive initially that step of the schedule pertaining to such office or position which will provide a one-step increase in his compensation. Provided, whenever a person occupying a permanent superior position is supervising a subordinate and the subordinate is receiving compensation at a rate equal to or greater than that which the superior is receiving, the person occupying the superior position shall be entitled to be advanced in steps to the highest salary paid to the highest ranking subordinate which he supervises plus one dollar ($1).

(d) When any person is demoted to another office or position he shall receive the fifth step rate of salary for the position to which he is demoted, except that if such demotion is due to disciplinary action, the appointing power may indicate any step rate of the lower position which provides compensation not higher than that last previously received by such person.

SEC. 9. 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 Los Angeles County is necessary to permit the Legislature to carry out its constitutional responsibility to provide for superior court reporters' salaries in the county in view of its submitted requests for adjustments in the compensation provided to court reporters in such county.

SEC. 10. In the event that any provision of Section 1, 3, or 9 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, Sections 1, 3, and 9 of this act shall be void, and to this end, the provisions of Sections 1, 3, and 9 of this act are inseverable.

SEC. 11. 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 or entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1483

An act to add and repeal Section 6140.3 of the Business and Professions Code, relating to the State Bar of California.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 6140.3 is added to the Business and Professions Code, to read:

6140.3. Notwithstanding Section 6140, the board shall fix the annual membership fee as follows:

(1) For active members who have been admitted to the practice of law in this state for ten (10) years or longer, at a sum not exceeding one hundred thirty dollars ($130).

(2) For active members who have been admitted to the practice of law in this state for less than ten (10) years but more than five (5) years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding one hundred fifteen dollars ($115).

(3) For active members who have been admitted to the practice of law in this state for less than five (5) years but more than two (2) years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding eighty-five dollars ($85).

(4) For active members who have been admitted to the practice of law in this state for less than two (2) years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding fifty-five dollars ($55).

(b) For the years commencing January 1, 1973, and ending December 31, 1982, the board may increase the annual membership fee fixed pursuant to subdivision (a) by an additional amount not exceeding ten dollars ($10) in any or all of such years, such additional amount in any year to be applied only to the cost of land and buildings to be used to conduct the operations of the State Bar, including furniture, furnishings, equipment, architects' fees, construction and financing costs, landscaping and other expenditures incident to the acquisition, construction, furnishing and equipping of such land and buildings, the payment of interest on and the repayment of moneys borrowed for such purposes, and the reimbursement of the State Bar's treasury expended for such purposes.

(c) Except as otherwise fixed by the board, the annual membership fee for active members is payable on or before the first day of February of each year.

(d) This section shall remain in effect only until January 1, 1978, and as of that date is repealed.

SEC. 2. The Joint Legislative Audit Committee is requested to

request the Auditor General to review and study the functioning, programs, and fees of the State Bar.

CHAPTER 1484

An act to amend Sections 72602.15, 72608, 72702, 72702.5, 72703, 72704, 72704.5, 72705, 72712, 72717, 72717.5, 72718, 72718.1, 72718.2, 72750.5, 72751, 72751.1, 72751.5, 72752, 72753, and 72754 of, and to add Section 72711.5 to, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 72602.15 of the Government Code is amended 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 person who occupies the position of 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 be designated the assistant clerk-administrative officer and shall be compensated at the rate set forth herein for those who occupy the position of clerk-administrative officer of a two-judge court.

SEC. 2. Section 72608 of the Government Code is amended to read:

72608. Certain classes of positions prescribed in Articles 2 (commencing with Section 72640), 3 (commencing with Section 72700) and 4 (commencing with Section 72750) of this chapter are deemed to be equivalent in job and salary level to position classifications included in the Salary Ordinance of Los Angeles County. In order to maintain parity of compensation and employee rights and benefits between such officers and attachés of municipal courts and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee rights and benefits for related classes of court positions, the provisions of this section shall govern salary adjustments and

employee rights and benefits for officers and attachés of municipal courts in Los Angeles County.

On the effective date of any amendment to such ordinance adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto and each other class of court position indented immediately thereunder shall be adjusted an equivalent number of schedules in the salary schedule to which such position is attached. In no event shall any one such salary adjustment exceed eight schedule numbers. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number.

Table of Positions

Court classification	County classification
Officers Series	
Inspector	Inspector
Marshal	
Assistant marshal	
Captain	Captain
Lieutenant	Lieutenant
Sergeant	Sergeant
Deputy marshal III	Deputy sheriff III
Deputy marshal IV	
Deputy marshal II	Deputy sheriff II
Deputy marshal I	Deputy sheriff I
Deputy marshal-matron	Corrections officer
Program Analysis Series	
Chief program analyst	Deputy county counsel III
Program analyst II	Deputy county counsel II
Program analyst I	Deputy county counsel II
Legal research assistant	Law clerk
Administrative—Branch Supervisor—Courtroom Series	
All positions subject to civil service provisions enumerated in Articles 2, 3, and 4 not listed in this table, except those specified in Section 72704.5	Superior court clerk

Administrative Services Series

Head, administrative services, marshal	Administrative analyst
Senior staff assistant, marshal	
Staff assistant, marshal	

Stenographic Series

Intermediate stenographic secretary	Intermediate stenographic secretary
Judicial secretary	
Administrative secretary, presiding judge	
Administrative secretary, clerk	
Administrative secretary, marshal	
Stenographic secretary	
Senior stenographic secretary	
Stenographic secretary, municipal courts	
Senior stenographer, municipal courts	
Stenographer, municipal courts	Legal Stenographer

Clerical Series

Deputy clerk II	Intermediate typist-clerk
Deputy clerk I	
Deputy clerk III	
Administrative clerk	
Typist-clerk	
Deputy clerk-custody officer	
Senior payroll clerk, marshal	

Storekeeper Series

Supply and reproduction supervisor	Storekeeper III
Supply and reproduction assistant	

Salary adjustments made pursuant to this section shall be effective until January 1 of the second year following the calendar year in which such adjustments are made.

Officers and attachés of municipal courts in Los Angeles County shall be entitled to all employee rights and benefits including, but not limited to, paid medical plans, parking and cafeteria privileges, longevity pay, shooting allowance, uniform and equipment allowance, and the same rights to meet with those entities which prescribe their compensation, that are provided for or made applicable to the equivalent Los Angeles County employee classification.

SEC. 3. Section 72702 of the Government Code is amended to read:

72702. There shall be one clerk who shall be appointed by the judges of the court and who shall receive a monthly salary at a rate specified in Schedule 67K of the salary schedule. Notwithstanding any other provisions of law, whenever any vacancy occurs, the judges shall appoint one clerk who shall hold office at their pleasure and who shall receive the salary hereinabove provided.

SEC. 4. Section 72702.5 of the Government Code is amended to read:

72702.5. The clerk may appoint one chief deputy clerk who shall receive a monthly salary at a rate specified in Schedule 57H of the salary schedule.

SEC. 5. Section 72703 of the Government Code is amended to read:

72703. The clerk may appoint:

(a) One deputy clerk who shall be chief, traffic division, and who shall receive a monthly salary at a rate specified in Schedule 50H.

(b) One deputy clerk who shall be chief, civil division, and who shall receive a monthly salary at a rate specified in Schedule 50H.

(c) One deputy clerk who shall be chief, criminal division, and who shall receive a monthly salary at a rate specified in Schedule 50H.

(d) One deputy clerk who shall be chief, data-processing division, and who shall receive a monthly salary at a rate specified in Schedule 50H.

(e) One deputy clerk who shall be chief, accounting division, and who shall receive a monthly salary at a rate specified in Schedule 48H.

(f) Three deputy clerks, assistant division chiefs, each of whom shall receive a monthly salary at a rate specified in Schedule 45H.

(g) One deputy clerk who shall be chief, administrative services, and who shall receive a monthly salary at a rate specified in Schedule 50H.

(h) One deputy clerk who shall be special assistant to the administrative officer, and who shall receive a monthly salary at a rate specified in Schedule 50H.

(i) One deputy clerk, who shall be criminal courts coordinator, and who shall receive a monthly salary at a rate specified in Schedule 37H.

(j) Six deputy clerks, principal clerk, each of whom shall receive

a monthly salary at a rate specified in Schedule 41J.

(k) One deputy clerk who shall be special assistant to the chief, accounting division, and who shall receive a monthly salary at a rate specified in Schedule 41B.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective schedule number in the salary schedule.

SEC. 6. Section 72704 of the Government Code is amended to read:

72704. The clerk may also appoint:

(a) Five deputy clerks grade V, each of whom shall receive a monthly salary at a rate specified in Schedule 41J.

(b) Ninety-five deputy clerks grade IV, plus one additional such deputy clerk for each judge in excess of 64 and each commissioner or traffic referee in excess of 18 to which the court is or may become entitled by law, each of whom shall receive a monthly salary at a rate specified in Schedule 37H.

(c) One deputy clerk, executive secretary, presiding judge, who shall receive a monthly salary at a rate specified in Schedule 35L. Appointments to said position shall be at step 3 of said schedule.

(d) One deputy clerk, administrative secretary, clerk, who shall receive a monthly salary at a rate specified in Schedule 31L. Appointments to said position shall be at step 3 of said schedule.

(e) Fifteen deputy clerks, judicial secretary, each of whom shall receive a monthly salary at a rate specified in Schedule 25L. Appointments to said positions shall be at step 3 of said schedule.

(f) Seventy-five deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 21E.

(g) Five deputy clerks, supervising clerk, each of whom shall receive a monthly salary at a rate specified in Schedule 26H.

(h) One hundred forty-five deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 15F.

(i) One hundred fifty-five deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 12C. Appointments to such positions shall be at step 3 of the schedule.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective schedule number in the salary schedule.

SEC. 7. Section 72704.5 of the Government Code is amended to read:

72704.5. The clerk may also appoint the following deputy clerks as needed:

(a) One computer operations supervisor, who shall receive a monthly salary 10 schedules more than the schedule specified for supervising computer operators.

(b) One data conversion supervisor, who shall receive a monthly salary at a rate specified in Schedule 35H.

(c) Three supervising keypunch operators, each of whom shall receive a monthly salary at a rate specified in Schedule 24E.

(d) Twelve senior keypunch operators, each of whom shall receive a monthly salary at a rate specified in Schedule 20E.

(e) Seventy-five keypunch operators, each of whom shall receive a monthly salary at a rate specified in Schedule 16E.

(f) One EDP data systems analyst who shall receive a monthly salary at a rate specified in Schedule 41C.

(g) One EDP staff aide who shall receive a monthly salary at a rate specified in Schedule 25C.

(h) Six supervising computer operators, each of whom shall receive a monthly salary at a rate specified in Schedule 35B.

(i) Six computer systems operators, each of whom shall receive a monthly salary at a rate specified in Schedule 29B.

(j) Six computer equipment operators, each of whom shall receive a monthly salary at a rate specified in Schedule 23E.

(k) One senior data control clerk, who shall receive a monthly salary at the rate specified in Schedule 20C.

(*l*) Two data control clerks, each of whom shall receive a monthly salary at the rate specified in Schedule 16C.

On the effective date of any amendment to the salary ordinance of Los Angeles County adjusting the salary of any position having the same classification as a court position listed in this section, the salary of such listed court position shall be adjusted an equivalent number of schedules in the salary schedule to which it is attached. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number. Such salary adjustments shall be on an interim basis and shall expire January 1 of the second calendar year following such adjustments, unless ratified by the Legislature.

Persons occupying positions listed in this section shall be entitled to all employee benefits that are provided for or made applicable to a Los Angeles County employee having an equal period of service.

SEC. 8. Section 72705 of the Government Code is amended to read:

72705. Whenever reference to a numbered salary schedule is made in any section of this article, the schedule found in the Salary Ordinance of the County of Los Angeles shall apply.

(a) Any deputy clerk of grade I classification who is regularly required to work on Saturdays and Sundays, or any deputy clerk who is required regularly to work a night shift shall receive a one-step increase in basic compensation. A night shift is a tour of duty which commences after 2 p.m. and prior to 6 a.m.

(b) Not more than 19 deputy clerks grade IV, while assigned to duties in divisions of the court requiring greater skill and responsibility, and, at each branch court of three or more divisions, one deputy clerk grade III assigned to supervise not less than 15 deputy clerks shall receive compensation at the rate of the next higher numbered salary schedule which will increase such basic

compensation by one step, provided that such branch court or division in said branch shall not have more than two such deputy clerk positions compensated at the next higher schedule at any one time. In any branch court of three or more divisions, the deputy clerk grade V in charge shall receive compensation at the rate of the next higher numbered salary schedule which will increase such basic compensation by two steps.

(c) Unless otherwise specifically provided, each person appointed to a position set forth in Section 72702, 72702.5, 72703, 72704, 72704.5, 72717, 72717.5 shall, be entitled to the same rights, privileges and benefits allowed Los Angeles County employees as provided in Chapter 1 of Ordinance 6222 of the County of Los Angeles. Any person appointed, promoted, or demoted to another office or position in such service, shall be compensated at the schedule provided for said appointment, promotion, or demotion in Chapter 1 of Ordinance 6222.

SEC. 9. Section 72711.5 is added to the Government Code, to read:

72711.5. The per diem and transcription fees payable pursuant to Section 72711 shall also be payable in the same sums and in the same manner by the parties to proceedings in the court for electronically recording an action or proceeding pursuant to Section 72194.5 or for transcriptions of testimony and proceedings in the court stenographically recorded. Such fees shall be paid to the clerk of the court, who shall deposit them in the reporters' salary fund. In any case where by law the court may direct the payment of a transcription fee out of the county treasury, upon order of the court the fee for transcription of testimony and proceedings in the court electronically recorded shall be paid from the reporters' salary fund, except fees for transcription of testimony and proceedings in felony cases, which shall be paid from the county treasury.

SEC. 10. Section 72712 of the Government Code is amended to read:

72712. There shall be set aside from the revenue of the court a revolving fund in the amount of two hundred thousand dollars ($200,000). The fund shall be known as the reporters' salary fund.

At the time of each monthly distribution of the revenue of the court to the cities within the judicial district and to the county within which the court is established, the clerk of the court shall deduct proportionately from their respective total shares such sum as will, when added to the sum then remaining in the fund, equal two hundred thousand dollars ($200,000) and deposit it in the fund. Such sum shall include the cost incurred pursuant to Section 72194.5 from electronic recording devices, appurtenant equipment, supplies, recordings and transcriptions produced from electronic recording of testimony and proceedings in the court.

Deductions from the county's share of the revenue shall be made from that portion of it distributable to the salary fund of the county, and deductions from each city's share shall be made from that

portion of it distributable to the general fund of each city.

For the purposes of this section the "revenue" of the court includes all fines, forfeitures, and fees accruing to the cities or the county, except law library fees.

SEC. 11. Section 72717 of the Government Code is amended to read:

72717. The Judges of the Municipal Courts of Los Angeles County may appoint one chief program analyst, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 61L, step 4. Notwithstanding the above, appointments to such position subsequent to January 1, 1977, shall be on that step provided in Section 72705 of this code.

SEC. 12. Section 72717.5 of the Government Code is amended to read:

72717.5. The chief program analyst, municipal courts, may appoint:

(a) Two program analysts II, municipal courts, each of whom shall receive a monthly salary at a rate specified in Schedule 52K, step 4.

(b) Three program analysts I, municipal courts, each of whom shall receive a monthly salary at a rate specified in Schedule 52K, step 2.

Notwithstanding the above, appointments to positions listed in subdivision (a) or (b) of this section, subsequent to January 1, 1977, shall be on that step provided for in Section 72705 of this code.

(c) The chief program analyst, municipal courts, may also appoint:

(1) One stenographic secretary, municipal courts, who shall receive a monthly salary of one thousand three hundred sixteen dollars and nine cents ($1,316.09). Notwithstanding the above, appointments to such position subsequent to January 1, 1977, shall be at a rate specified in Schedule 27J.

(2) One senior stenographer, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 27J.

(3) One stenographer, municipal courts, who shall receive a monthly salary of one thousand ninety-eight dollars and eighty-two cents ($1,098.82). Notwithstanding the above, appointments to such position subsequent to January 1, 1977, shall be at a rate specified in Schedule 23J, but in no event less than step 3.

(4) Fifteen legal research assistants, each of whom shall receive compensation at the rate of four dollars and eighty-nine cents ($4.89) per hour.

SEC. 13. Section 72718 of the Government Code is amended to read:

72718. The Judges of the Municipal Court of the Los Angeles Judicial District may appoint one witness coordinator at an annual salary of twenty-four thousand dollars ($24,000) plus employee benefits equal to those provided Los Angeles County employees generally. Such salary shall be paid from federal funds.

SEC. 14. Section 72718.1 of the Government Code is amended to read:

72718.1. The witness coordinator may appoint:

(a) One assistant witness coordinator who shall receive an annual salary of nineteen thousand seven hundred ninety-five dollars ($19,795).

(b) Three courtroom coordinators who shall receive an annual salary of fourteen thousand nine hundred eighty dollars ($14,980).

(c) One judicial secretary who shall receive an annual salary of twelve thousand five hundred forty-five dollars ($12,545).

(d) One witness clerk III, who shall receive an annual salary of eleven thousand eighty-one dollars ($11,081).

(e) One day care teacher who shall receive an annual salary of nine thousand nine hundred sixty-four dollars ($9,964).

(f) One witness clerk I who shall receive an annual salary of eight thousand six hundred twenty-four dollars ($8,624).

In addition to the salaries and compensation set forth in this section, each employee shall receive employee benefits equal to those provided Los Angeles County employees generally. All salaries shall be paid from federal funds.

SEC. 15. Section 72718.2 of the Government Code is amended to read:

72718.2. The witness coordinator may also appoint student interns at the rate of five dollars ($5) per hour, but not to exceed 6,000 hours per annum.

In addition each student intern shall receive benefits equal to those provided equivalent Los Angeles County employees. All salaries shall be paid from federal funds.

SEC. 16. Section 72750.5 of the Government Code is amended to read:

72750.5. In each municipal court district having seven judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 55H.

The clerk may appoint:

(a) Eleven deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 12C. Appointment to said positions shall be at step 3 of said schedule.

(b) Thirteen deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 15F.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 21E.

(d) Nine deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 37H.

(e) One deputy clerk, judicial secretary, who shall receive a monthly salary at a rate specified in Schedule 25L. Appointment to

such position shall be at step 3 of such schedule.

(f) One chief clerk—administrative services, who shall receive a monthly salary at a rate specified in Schedule 42H.

(g) One jury secretary who shall receive a monthly salary at a rate specified in Schedule 42H.

(h) One chief clerk—civil, who shall receive a monthly salary at a rate specified in Schedule 42H.

(i) One chief clerk—criminal, who shall receive a monthly salary at a rate specified in Schedule 42H.

(j) One chief clerk—traffic, who shall receive a monthly salary at a rate specified in Schedule 42H.

(k) One occupant of chief clerk position as set forth in this section shall be designated by the clerk-administrative officer as assistant clerk and shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 17. Section 72751 of the Government Code is amended to read:

72751. In each municipal court district having six judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 53H.

The clerk may appoint:

(a) Ten deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 12C. Appointment to said positions shall be at step 3 of said schedule.

(b) Twelve deputy clerks grade II each of whom shall receive a monthly salary at a rate specified in Schedule 15F.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 21E.

(d) Eight deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 37H.

(e) One chief deputy clerk who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 18. Section 72751.1 of the Government Code is amended to read:

72751.1. In each municipal court district having five judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 52H.

The clerk may appoint:

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 12C. Appointments to

said positions shall be at step 3 of said schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 15F.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 21E.

(d) Seven deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 37H.

(e) One chief deputy clerk who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 19. Section 72751.5 of the Government Code is amended to read:

72751.5. In each municipal court district having four judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 52H.

The clerk may appoint:

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 12C. Appointments to said positions shall be at step 3 of said schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 15F.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 21E.

(d) Six deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 37H.

(e) One chief deputy clerk who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 20. Section 72752 of the Government Code is amended to read:

72752. In each municipal court district having three judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 51H.

The clerk may appoint:

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 12C. Appointments to said positions shall be at step 3 of said schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 15F.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 21E.

(d) Five deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 37H.

(e) One chief deputy clerk who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 21. Section 72753 of the Government Code is amended to read:

72753. In each municipal court district having two judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 51H.

The clerk may appoint:

(a) Six deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 12C. Appointments to said positions shall be at step 3 of said schedule.

(b) Eight deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 15F.

(c) Six deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 21E.

(d) Three deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 37H.

(e) One chief deputy clerk who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 22. Section 72754 of the Government Code is amended to read:

72754. In each municipal court district having one judge authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judge of the court, who shall receive a monthly salary at a rate specified in Schedule 49H.

The clerk may appoint:

(a) Two deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 12C. Appointments to said positions shall be at step 3 of said schedule.

(b) Three deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 15F.

(c) Two deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 21E.

(d) Two deputy clerks grade IV, plus one additional such deputy

clerk for each commissioner appointed pursuant to Section 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 37H; provided, however, that one of such deputy clerks grade IV whose regular duties shall include the supervision of clerical personnel shall, for the duration of such assignment, receive compensation at the rate of the next higher numbered salary schedule which will increase his basic compensation by one step.

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 governmental entity or entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1485

An act to amend Section 15452.3 of the Education Code, relating to school facilities.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 15452.3 of the Education Code, as added by Chapter 450 of the Statutes of 1976, is amended to read:

15452.3. For the purposes of this article and Article 5 (commencing with Section 15501) of this chapter, "school building" does not include (a) any building of a school district or county superintendent of schools which is used solely for classes or programs in outdoor science, conservation, and forestry in accordance with Article 6 (commencing with Section 6011) of Chapter 6 of Division 6, and which does not occupy, in whole or in part, the same parcel of land upon which there is situated any school maintained by the district or county superintendent of schools, or (b) a greenhouse which is used exclusively for the cultivation or protection of agricultural or horticultural products.

CHAPTER 1486

An act to add and repeal Section 15452.3 of the Education Code, relating to school buildings, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1976 Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 15452.3 is added to the Education Code, to read:

15452.3. For the purposes of this article and Article 5 (commencing with Section 15501) of this chapter, "school building" does not include any building of a school district or county superintendent of schools which is used solely for classes or programs in outdoor science, conservation, and forestry in accordance with Article 6 (commencing with Section 6011) of Chapter 6 of Division 6, and which does not occupy, in whole or in part, the same parcel of land upon which there is situated any school maintained by the district or county superintendent.

SEC. 2. Section 15452.3 is added to the Education Code, to read:

15452.3. For the purposes of this article and Article 5 (commencing with Section 15501) of this chapter, "school building" does not include (a) any building of a school district or county superintendent of schools which is used solely for classes or programs in outdoor science, conservation, and forestry in accordance with Article 6 (commencing with Section 6011) of Chapter 6 with Division 6, and which does not occupy, in whole or in part, the same parcel of land upon which there is situated any school maintained by the district or county superintendent, or (b) a greenhouse which is used exclusively for the cultivation or protection of agricultural or horticultural products.

SEC. 3. Section 15452.3 as added to the Education Code by Assembly Bill No. 4340 of the 1975–76 Regular Session is repealed.

SEC. 4. Section 15452.3 as added to the Education Code by Chapter 450 of the Statutes of 1976 is repealed.

SEC. 5. It is the intention of the Legislature that if this bill and Assembly Bill No. 4340 are both chaptered, Assembly Bill No. 4340 is effective January 1, 1977, both bills add a Section 15452.3 to the Education Code, and this bill is chaptered after Assembly Bill No. 4340, that Section 15452.3 of the Education Code, as added thereto by Section 1 of this act, shall remain operative only until the operative date of Assembly Bill No. 4340, and that on the operative date of Assembly Bill No. 4340, Section 15452.3 of the Education Code as added by Section 1 of this act be repealed and Section 2 of this act shall become operative. Further, Section 3 of this act shall become operative only if this bill and Assembly Bill No. 4340 are both chaptered, Assembly Bill No. 4340 becomes effective January 1, 1977, and this bill is chaptered after Assembly Bill No. 4340, in which case Section 3 of this act shall become operative on the operative date of Assembly Bill No. 4340.

Further, if Assembly Bill No. 4340 is chaptered, Section 4 of this act shall not become operative. If Assembly Bill No. 4340 is not chaptered, Section 4 of this act shall become operative on the operative date of this act.

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:

Unless the exemptions provided for by this act take effect at the earliest possible time, various school districts and counties occupying nonconforming buildings will face disruption and increased costs upon commencement of the 1976–77 school year. It is therefore necessary that this act go into immediate effect.

CHAPTER 1487

An act to amend Sections 73101 and 73113 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1976. Filed with Secretary of State October 1, 1976.]

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

SECTION 1. Section 73101 of the Government Code is amended to read:

73101. The San Bernardino County Municipal Court District shall consist of the following divisions, embracing that territory which is within the following judicial districts in the County of San Bernardino on the date specified, and as such divisions are thereafter modified by the board of supervisors or operation of law.

(a) On November 8, 1967:

(1) East Division—that territory within the Redlands Judicial District.

(2) Central Division—that territory within the San Bernardino Judicial District.

(3) Valley Division—that territory within the Fontana and Rialto Judicial Districts.

(4) West Valley Division—that territory within the West Valley Municipal Court District.

(5) Victorville Division—that territory within the Victor Judicial District.

(b) On August 5, 1973:

(1) Barstow Division—that territory within the Barstow, Yermo-Belleville and Trona Judicial Districts.

(c) On November 26, 1973:

(1) Chino Division—that territory within the Chino Judicial District.

Any reference in this or any other code to the Desert Division of the San Bernardino County Municipal Court District shall be deemed to refer to the Victorville Division of such district.

SEC. 2. 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	
2	76	78	79	Marshal's captain
1	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

The marshal shall also appoint as many deputy marshal keepers as may be required by law. The deputy marshal keepers shall be compensated at the fee allowed by law for keeping property.

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 governmental 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

1976 RESOLUTION CHAPTERS

17 46 12 210

RESOLUTION CHAPTER 1

Assembly Concurrent Resolution No. 131—Approving amendments to the Charter of the City of San Leandro, State of California, ratified by the qualified electors of the city at a general election held therein on the ninth day of April, 1974.

[Filed with Secretary of State January 13, 1976.]

WHEREAS, Proceedings have been taken and had for the proposal, adoption, and ratification of amendments to the Charter of the City of San Leandro, State of California, as hereinafter set forth in the certificate of the Mayor and City Clerk of the City of San Leandro, as follows:

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 San Leandro 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 Leandro.

RESOLUTION CHAPTER 2

Senate Constitutional Amendment No. 16—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 8.5 to Article XIII thereof, relating to property taxation.

[Filed with Secretary of State January 20, 1976.]

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 adding Section 8.5 to Article XIII thereof, to read:

SEC. 8.5. The Legislature may provide by law for the manner in which a person of low or moderate income who is 62 years of age or

older may postpone ad valorem property taxes on the dwelling owned and occupied by him as his principal place of residence. The Legislature shall have plenary power to define all terms in this section.

The Legislature shall provide by law for subventions to counties, cities and counties, cities and districts in an amount equal to the amount of revenue lost by each by reason of the postponement of taxes and for the reimbursement to the state of such subventions from the payment of postponed taxes. Provision shall be made for the inclusion in such reimbursement for the payment of interest on, and any costs to the state incurred in connection with, such subventions.

RESOLUTION CHAPTER 3

Senate Concurrent Resolution No. 74—Relative to memorializing the Honorable Harrison W. Call.

[Filed with Secretary of State January 20, 1976.]

WHEREAS, It was with the most profound sorrow that the members learned of the passing of former California State Assemblyman Harrison W. Call, who represented the citizens of San Mateo County in the California State Legislature from 1936 to 1946, on August 27, 1975, at the age of 77; and

WHEREAS, Mr. Call, who was the Redwood City Attorney when he was elected to the California State Assembly in 1936, served with honor and distinction as a Member of the Legislature for 10 years, winning a reputation as a colorful figure, excellent orator, and raconteur; and

WHEREAS, He displayed an assiduous devotion to the responsible discharge of his duties as Chairman of the Introduction of Bills Committee in the 1937 session, as Chairman of the Banking Committee in the 1941 session, and as Chairman of the Committee on Judiciary in the 1943 and 1945 sessions; and

WHEREAS, Mr. Call retired from the California State Assembly in 1946 to run for the office of Attorney General, but his unsuccessful attempt prompted him to return to private practice of the law, an endeavor which was followed by service as a deputy legislative counsel in Carson City, Nevada, and later, a tenure as deputy attorney general for the State of Nevada; and

WHEREAS, Graduating from an elementary grade school in Eureka, California, he went to work for the Multi-Press Company in Fresno, the first printing company to print in color, and, in that position was sent to the 1915 Exposition in San Francisco to take charge of the company's exhibit; and

WHEREAS, Following the 1915 Exposition, Mr. Call joined the National Guard and was subsequently sent to Mexico to join the

forces of General Pershing, and the veteran of World War I and the Mexican-American War served his country with the utmost honor and distinction; and

WHEREAS, Without a high school education, but with a determination to attend Stanford University, he was allowed to take the entrance examination, which he passed with flying colors, and he graduated with honors from Stanford Law School, working his way through eight years of higher education; and

WHEREAS, Mr. Call is survived by his wife, Stella; four children, William H. Call, Eldon A. Call, and Mrs. Marcia Brownfield, all of Sacramento; and Harrison A. Call of Florida; his sisters, Mrs. Eldon L. Hite of Burbank and Mrs. Billie Clevenger of Hollywood; and his brother, Charles Call of Medford, Oregon; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members extend their deepest sympathies at the passing of a distinguished Sacramento resident and former Member of the California State Assembly, the Honorable Harrison W. Call, and, by this resolution, memorialize his outstanding record of responsible citizenship and dedicated state service, and his devoted efforts on behalf of his family and friends; and be it further

Resolved, That suitably prepared copies of this resolution be transmitted to Mrs. Stella Call, Mr. William H. Call, Mr. Eldon A. Call, Mrs. Marcia Brownfield, Mr. Harrison W. Call, Mrs. Eldon L. Hite, Mrs. Billie Clevenger, and Mr. Charles Call.

RESOLUTION CHAPTER 4

Assembly Joint Resolution No. 54—Relative to crude oil prices.

[Filed with Secretary of State January 29, 1976.]

WHEREAS, Crude oil prices in the State of California, which are controlled by the Federal Energy Administration, are currently below the ceiling price permitted in other oil-producing states of the nation; and,

WHEREAS, This inequity is created by differences in the Gravity Differential Penalty between California-produced oil and other oil-producing states of the nation; and

WHEREAS, This discriminatory regulation of the Federal Energy Administration is causing a loss of income to the State of California of approximately $200 million per year; and

WHEREAS, The majority of this lost income is from state-controlled crude oil production in the California tidelands; and,

WHEREAS, The principle beneficiaries of this tideland production income are: Capital Outlay for Public Higher Education Fund, the California Water Fund, the Central Valley Water Project

Construction Fund, the State Lands Division, and the State Lands Commission; and,

WHEREAS, The state is losing additional dollars to the General Fund from taxes on crude oil production from the private sector; and,

WHEREAS, Portions of the aforementioned private sector, especially some of the smaller independent operators, are in a distressed condition due to these discriminatory regulations; and,

WHEREAS, Necessary abandonment of marginal or uneconomic wells by these distressed operators would further the tax loss to the state and add to our already serious unemployment problems; and,

WHEREAS, Failure to change this discriminatory regulation may cause additional reliance on insecure, expensive, foreign crude oil, impacting the consumer by as much as 3 cents per gallon on automobile fuels; and,

WHEREAS, Failure to change this discriminatory regulation before new Federal Energy Administration rules become effective on February 1, 1976, will cause California crude oil prices to be lower than other producing states of the nation for the next 40 months; now, therefore, be it

Resolved, That the California Legislature does hereby support an adjustment in the Gravity Differential Penalty for California as controlled by the Federal Energy Administration, to bring California crude oil prices to parity with other oil-producing states of the nation; and be it further

Resolved, That this adjustment be made prior to enactment of new Federal Energy Administration regulations to become effective February 1, 1976, so the State of California will be treated equally under the provision of the Energy Pricing and Conservation Act; and be it further

Resolved, That a copy of this resolution be transmitted to Gerald Ford, President of the United States, to Frank Zarb, Administrator of the Federal Energy Administration, to each Senator and Representative from California in the Congress of the United States, to Edmund G. Brown Jr., Governor of the State of California and to the members of the State Lands Commission.

RESOLUTION CHAPTER 5

Assembly Constitutional Amendment No. 40—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending and renumbering Sections 26 and 28 of Article I thereof, by amending the heading of Article II thereof, by amending and renumbering Sections 1, 2, 3, 4, 5, and 6 of, and by adding Sections 13, 14, 15, 16, 17, 18, 19, and 20 to, Article II thereof, by amending Sections 3 and 7 of, by amending and renumbering Sections 22, 23, 24, 25, and 26 of, and by repealing

Section 28 of, Article IV thereof, by amending Section 5 of, and by repealing Section 5.5 of, Article VI thereof, by amending Section 10 of, and by repealing Section 10.5 of, Article XI thereof, by amending and renumbering Sections 6, 7, 24, and 25 of, by adding Section 1 to, and by repealing Sections 5, 10, 11, 15, 17, 17½, 19, 20, 21, and 22 of, Article XX thereof, by adding Article VII thereto, by adding Article X thereto, by adding Article XIV thereto, by adding Article XV thereto, by repealing Article XIV thereof, by repealing Article XV thereof, by repealing Article XVII thereof, by repealing Article XXIII thereof, by repealing Article XXIV thereof, and by amending and renumbering the heading of Article XXVI thereof, relating to constitutional revision.

[Filed with Secretary of State February 3, 1976]

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 as follows:

First—That Section 26 of Article I is amended and renumbered to be Section 1 of Article II:

SECTION 1. All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require.

Second—That Section 28 of Article I is amended and renumbered to be Section 26:

SEC. 26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Third—That the heading of Article II is amended to read:

ARTICLE II

VOTING, INITIATIVE AND REFERENDUM, AND RECALL

Fourth—That Section 1 of Article II is amended and renumbered to be Section 2:

SEC. 2. A United States citizen 18 years of age and resident in this state may vote.

Fifth—That Section 2 of Article II is amended and renumbered to be Section 3:

SEC. 3. The Legislature shall define residence and provide for registration and free elections.

Sixth—That Section 3 of Article II is amended and renumbered to be Section 4:

SEC. 4. The Legislature shall prohibit improper practices that

affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony.

Seventh—That Section 4 of Article II is amended and renumbered to be Section 5:

SEC. 5. The Legislature shall provide for primary elections for partisan offices, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy.

Eighth—That Section 5 of Article II is amended and renumbered to be Section 6:

SEC. 6. Judicial, school, county, and city offices shall be nonpartisan.

Ninth—That Section 6 of Article II is amended and renumbered to be Section 7:

SEC. 7. Voting shall be secret.

Tenth—That Section 13 is added to Article II, to read:

SEC. 13. Recall is the power of the electors to remove an elective officer.

Eleventh—That Section 14 is added to Article II, to read:

SEC. 14. (a) Recall of a State officer is initiated by delivering to the Secretary of State a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

(b) A petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county. Signatures to recall Senators, Assemblymen, members of the Board of Equalization, and judges of courts of appeal and trial courts must equal in number 20 percent of the last vote for the office.

(c) The Secretary of State shall maintain a continuous count of the signatures certified to that office.

Twelfth—That Section 15 is added to Article II, to read:

SEC. 15. An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures. If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.

Thirteenth—That Section 16 is added to Article II, to read:

SEC. 16. The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election.

Fourteenth—That Section 17 is added to Article II, to read:

SEC. 17. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively.

Fifteenth—That Section 18 is added to Article II, to read:

SEC. 18. A State officer who is not recalled shall be reimbursed by the State for his recall election expenses legally and personally incurred. Another recall may not be initiated against him until six months after the election.

Sixteenth—That Section 19 is added to Article II, to read:

SEC. 19. The Legislature shall provide for recall of local officers. This section does not affect counties and cities whose charters provide for recall.

Seventeenth—That Section 20 is added to Article II, to read:

SEC. 20. Terms of elective offices provided for by this Constitution, other than Members of the Legislature, commence on the Monday after January 1 following election. The election shall be held in the last even-numbered year before the term expires.

Eighteenth—That Section 3 of Article IV is amended to read:

SEC. 3. (a) The Legislature shall convene in regular session at noon on the first Monday in December of each even-numbered year and each house shall immediately organize. Each session of the Legislature shall adjourn sine die by operation of the Constitution at midnight on November 30 of the following even-numbered year.

(b) On extraordinary occasions the Governor by proclamation may cause the Legislature to assemble in special session. When so assembled it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session.

Nineteenth—That Section 7 of Article IV is amended to read:

SEC. 7. (a) Each house shall choose its officers and adopt rules for its proceedings. A majority of the membership constitutes a quorum, but a smaller number may recess from day to day and compel the attendance of absent members.

(b) Each house shall keep and publish a journal of its proceedings. The rollcall vote of the members on a question shall be taken and entered in the journal at the request of 3 members present.

(c) The proceedings of each house and the committees thereof shall be public except as provided by statute or by concurrent resolution, when such resolution is adopted by a two-thirds vote of the members of each house, provided, that if there is a conflict between such a statute and concurrent resolution, the last adopted shall prevail.

(d) Neither house without the consent of the other may recess for more than 10 days or to any other place.

Twentieth—That Section 22 of Article IV is amended and renumbered to be Section 8 of Article II:

SEC. 8. (a) The initiative is the power of the electors to propose

statutes and amendments to the Constitution and to adopt or reject them.

(b) An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by electors equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the votes for all candidates for Governor at the last gubernatorial election.

(c) The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

(d) An initiative measure embracing more than one subject may not be submitted to the electors or have any effect.

Twenty-first—That Section 23 of Article IV is amended and renumbered to be Section 9 of Article II:

SEC. 9. (a) The referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.

(b) A referendum measure may be proposed by presenting to the Secretary of State, within 90 days after the enactment date of the statute, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or part of it be submitted to the electors.

(c) The Secretary of State shall then submit the measure at the next general election held at least 31 days after it qualifies or at a special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

Twenty-second—That Section 24 of Article IV is amended and renumbered to be Section 10 of Article II:

SEC. 10. (a) An initiative statute or referendum approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If a referendum petition is filed against a part of a statute the remainder shall not be delayed from going into effect.

(b) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

(c) The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval.

(d) Prior to circulation of an initiative or referendum petition for signatures, a copy shall be submitted to the Attorney General who shall prepare a title and summary of the measure as provided by law.

(e) The Legislature shall provide the manner in which petitions shall be circulated, presented, and certified, and measures submitted to the electors.

Twenty-third—That Section 25 of Article IV is amended and renumbered to be Section 11 of Article II:

SEC. 11. Initiative and referendum powers may be exercised by the electors of each city or county under procedures that the Legislature shall provide. This section does not affect a city having a charter.

Twenty-fourth—That Section 26 of Article IV is amended and renumbered to be Section 12 of Article II:

SEC. 12. No amendment to the Constitution, and no statute proposed to the electors by the Legislature or by initiative, that names any individual to hold any office, or names or identifies any private corporation to perform any function or to have any power or duty, may be submitted to the electors or have any effect.

Twenty-fifth—That Section 28 of Article IV is repealed.

Twenty-sixth—That Section 5 of Article VI is amended to read:

SEC. 5. (a) Each county shall be divided into municipal court and justice court districts as provided by statute, but a city may not be divided into more than one district. Each municipal and justice court shall have one or more judges.

There shall be a municipal court in each district of more than 40,000 residents and a justice court in each district of 40,000 residents or less. The number of residents shall be ascertained as provided by statute.

The Legislature shall provide for the organization and prescribe the jurisdiction of municipal and justice courts. It shall prescribe for each municipal court and provide for each justice court the number, qualifications, and compensation of judges, officers, and employees.

(b) Notwithstanding the provisions of subdivision (a), any city in San Diego County may be divided into more than one municipal court or justice court district if the Legislature determines that unusual geographic conditions warrant such division.

Twenty-seventh—That Section 5.5 of Article VI is repealed.

Twenty-eighth—That Article VII is added, to read:

ARTICLE VII

PUBLIC OFFICERS AND EMPLOYEES

SECTION 1. (a) The civil service includes every officer and employee of the state except as otherwise provided in this Constitution.

(b) In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination.

SEC. 2. (a) There is a Personnel Board of 5 members appointed by the Governor and approved by the Senate, a majority of the

membership concurring, for 10-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. A member may be removed by concurrent resolution adopted by each house, two-thirds of the membership of each house concurring.

(b) The board annually shall elect one of its members as presiding officer.

(c) The board shall appoint and prescribe compensation for an executive officer who shall be a member of the civil service but not a member of the board.

SEC. 3. (a) The board shall enforce the civil service statutes and, by majority vote of all its members, shall prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions.

(b) The executive officer shall administer the civil service statutes under rules of the board.

SEC. 4. The following are exempt from civil service:

(a) Officers and employees appointed or employed by the Legislature, either house, or legislative committees.

(b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

(c) Officers elected by the people and a deputy and an employee selected by each elected officer.

(d) Members of boards and commissions.

(e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.

(f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

(g) A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).

(h) Officers and employees of the University of California and the California State Colleges.

(i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.

(j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.

(k) Members of the militia while engaged in military service.

(*l*) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.

(m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint

or employ two deputies or employees.

SEC. 5. A temporary appointment may be made to a position for which there is no employment list. No person may serve in one or more positions under temporary appointment longer than 9 months in 12 consecutive months.

SEC. 6. (a) The Legislature may provide preferences for veterans and their surviving spouses.

(b) The board by special rule may permit persons in exempt positions, brought under civil service by constitutional provision, to qualify to continue in their positions.

(c) When the state undertakes work previously performed by a county, city, public district of this state or by a federal department or agency, the board by special rule shall provide for persons who previously performed this work to qualify to continue in their positions in the state civil service subject to such minimum standards as may be established by statute.

SEC. 7. A person holding a lucrative office under the United States or other power may not hold a civil office of profit. A local officer or postmaster whose compensation does not exceed 500 dollars per year or an officer in the militia or a member of a reserve component of the armed forces of the United States except where on active federal duty for more than 30 days in any year is not a holder of a lucrative office, nor is the holding of a civil office of profit affected by this military service.

SEC. 8. (a) Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure personal election or appointment.

(b) Laws shall be made to exclude persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes from office or serving on juries. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 9. Notwithstanding any other provision of this Constitution, no person or organization which advocates the overthrow of the Government of the United States or the State by force or violence or other unlawful means or who advocates the support of a foreign government against the United States in the event of hostilities shall:

(a) Hold any office or employment under this State, including but not limited to the University of California, or with any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State; or

(b) Receive any exemption from any tax imposed by this State or any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State.

The Legislature shall enact such laws as may be necessary to enforce the provisions of this section.

Twenty-ninth—That Article X is added, to read:

ARTICLE X

WATER

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

SEC. 2. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. Riparian rights in a stream or water course attach to, but to no more than so much of the flow thereof as may be required or used consistently with this section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; provided, however, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which the owner's land is riparian under reasonable methods of diversion and use, or as depriving any appropriator of water to which the appropriator is lawfully entitled. This section shall be self-executing, and the Legislature may also enact laws in the furtherance of the policy in this section contained.

SEC. 3. All tidelands within two miles of any incorporated city, city and county, or town in this State, and fronting on the water of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations; provided, however, that any such tidelands, reserved to the State solely for street purposes, which the Legislature finds and declares are not used for navigation purposes and are not necessary for such purposes may be sold to any town, city, county, city and county, municipal corporations, private persons, partnerships or corporations subject to such conditions as the Legislature determines are necessary to be imposed in connection with any such sales in order to protect the public interest.

SEC. 4. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water;

and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

SEC. 5. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law.

SEC. 6. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law.

SEC. 7. Whenever any agency of government, local, state, or federal, hereafter acquires any interest in real property in this State, the acceptance of the interest shall constitute an agreement by the agency to conform to the laws of California as to the acquisition, control, use, and distribution of water with respect to the land so acquired.

Thirtieth—That Section 10 of Article XI is amended to read:

SEC. 10. (a) A local government body may not grant extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or pay a claim under an agreement made without authority of law.

(b) A city or county, including any chartered city or chartered county, or public district, may not require that its employees be residents of such city, county, or district; except that such employees may be required to reside within a reasonable and specific distance of their place of employment or other designated location.

Thirty-first—That Section 10.5 of Article XI is repealed.

Thirty-second—That Article XIV is repealed.

Thirty-third—That Article XIV is added, to read:

ARTICLE XIV

LABOR RELATIONS

SECTION 1. The Legislature may provide for minimum wages and for the general welfare of employees and for those purposes may confer on a commission legislative, executive, and judicial powers.

SEC. 2. Worktime of mechanics or workers on public works may not exceed eight hours a day except in wartime or extraordinary emergencies that endanger life or property. The Legislature shall provide for enforcement of this section.

SEC. 3. Mechanics, persons furnishing materials, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens.

SEC. 4. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers' compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers' compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a State compensation insurance fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the State government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workers' compensation, as herein defined.

The Legislature shall have power to provide for the payment of an award to the state in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the

industrial accident commission of this State or the State compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed.

SEC. 5. The labor of convicts shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the state.

Thirty-fourth—That Article XV is repealed.

Thirty-fifth—That Article XV is added, to read:

ARTICLE XV

USURY

SECTION 1. 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 per cent 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 not exceeding 10 per cent per annum.

No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than 10 per cent per annum 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 1 (commencing with Section 54001) of Division 20 of the Food and 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.

Thirty-sixth—That Article XV is added, to read:

ARTICLE XV

USURY

SECTION 1. 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 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code in loaning or advancing 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.

Thirty-seventh —That Article XVII is repealed.

Thirty-eighth—That Section 1 is added to Article XX, to read:

SECTION 1. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families.

Thirty-ninth—That Section 5 of Article XX is repealed.

Fortieth—That Section 6 of Article XX is amended and renumbered to be Section 2:

SEC. 2. Except for tax exemptions provided in Article XIII, the rights, powers, privileges, and confirmations conferred by Sections 10 and 15 of Article IX in effect on January 1, 1973, relating to Stanford University and the Huntington Library and Art Gallery, are continued in effect.

Forty-first—That Section 7 of Article XX is amended and renumbered to be Section 4:

SEC. 4. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee, or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges.

Forty-second—That Section 10 of Article XX is repealed.

Forty-third—That Section 11 of Article XX is repealed.

Forty-fourth—That Section 15 of Article XX is repealed.

Forty-fifth—That Section 17 of Article XX is repealed.

Forty-sixth—That Section 17½ of Article XX is repealed.

Forty-seventh—That Section 19 of Article XX is repealed.

Forty-eighth—That Section 20 of Article XX is repealed.

Forty-ninth—That Section 21 of Article XX is repealed.

Fiftieth—That Section 22, as adopted November 6, 1934, of Article XX is repealed.

Fifty-first—That Section 24 of Article XX is amended and renumbered to be Section 5:

SEC. 5. All laws now in force in this State concerning corporations and all laws that may be hereafter passed pursuant to this section may be altered from time to time or repealed.

Fifty-second—That Section 25 of Article XX is amended and renumbered to be Section 6:

SEC. 6. Any legislator whose term of office is reduced by operation of the amendment to subdivision (a) of Section 2 of Article IV adopted by the people in 1972 shall, notwithstanding any other provision of this Constitution, be entitled to retirement benefits and compensation as if the term of office had not been so reduced.

Fifty-third—That Article XXIII is repealed.

Fifty-fourth—That Article XXIV is repealed.

Fifty-fifth—That the heading of Article XXVI is amended and renumbered to read:

ARTICLE XIX

MOTOR VEHICLE REVENUES

And be it further resolved, That Article XV as added by the thirty-fifth clause of this constitutional amendment shall not become operative if the amendments to Section 22 of Article XX as proposed

by Senate Constitutional Amendment No. 19 of the 1975–76 Regular Session (Resolution Chapter 132, Statutes of 1975) are adopted by the people at an earlier election; in which case Article XV as added by the thirty-sixth clause of this constitutional amendment shall become operative;

And be it further resolved, That Article XV as added by the thirty-fifth clause of this constitutional amendment shall not become operative if the amendments to Section 22 of Article XX as proposed by Senate Constitutional Amendment No. 19 of the 1975–76 Regular Session (Resolution Chapter 132, Statutes of 1975) are adopted by the people at the same election, and this constitutional amendment receives the higher affirmative vote of the two measures; in which case Article XV as added by the thirty-sixth clause of this constitutional amendment shall become operative;

And be it further resolved, That neither Article XV as added by the thirty-fifth clause of this constitutional amendment nor Article XV as added by the thirty-sixth clause of this constitutional amendment shall become operative if the amendments to Section 22 of Article XX as proposed by Senate Constitutional Amendment No. 19 of the 1975–76 Regular Session (Resolution Chapter 132, Statutes of 1975) are adopted by the people at the same election, and this constitutional amendment receives the lower affirmative vote of the two measures;

And be it further resolved, That Article XV as added by the thirty-sixth clause of this constitutional amendment shall not become operative if the amendments to Section 22 of Article XX as proposed by Senate Constitutional Amendment No. 19 of the 1975–76 Regular Session (Resolution Chapter 132, Statutes of 1975) are rejected by the people; in which case Article XV as added by the thirty-fifth clause of this constitutional amendment shall become operative.

RESOLUTION CHAPTER 6

Assembly Concurrent Resolution No. 132—Relative to the Joint Committee on Legal Equality.

[Filed with Secretary of State February 3, 1976.]

Resolved by the Assembly of the State of California, the Senate 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, and as continued in existence by Resolution Chapter 63 of the Statutes of 1975, 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 they shall continue to have the powers and duties granted and imposed by the resolution by which they were created.

RESOLUTION CHAPTER 7

Senate Concurrent Resolution No. 76—Relative to the Joint Committee on the Structure of the Judiciary.

[Filed with Secretary of State February 4, 1976.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on the Structure of the Judiciary is continued in existence through November 30, 1976, notwithstanding the provisions of any prior concurrent resolution affecting the committee. The committee shall continue to have the powers and the duties granted and imposed by the resolution creating 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 8

Assembly Joint Resolution No. 35—Relative to public lands.

[Filed with Secretary of State February 10, 1976.]

WHEREAS, More than 50 percent of the land in California is owned by various agencies of local, state, and federal government; and

WHEREAS, Such public agencies continue to acquire additional land without apparent regard for ultimate use; and

WHEREAS, Much of the property already in the ownership of these governmental agencies is poorly controlled and maintained due to various factors, including lack of funding and lack of staffing; and

WHEREAS, The method of land acquisition often employed by governmental agencies is haphazard or checkerboard in pattern, endangering the property rights of owners of adjacent property through uncertainty and causing diminution of land values; and

WHEREAS, The property tax base is vastly depleted due to such an extensive land ownership by governmental agencies; and

WHEREAS, It is often the local taxpayer who must, in the longrun, bear the cost of the removal of such property from the tax rolls; 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 and the Congress of the United States to restrict federal governmental agencies from acquiring more land, unless such acquisition is for a specifically defined use for which the agency has the necessary capability and funding to acquire and maintain it in accordance with such land use; 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 9

Senate Concurrent Resolution No. 77—Relative to motor vehicle emissions inspection.

[Filed with Secretary of State February 10, 1976.]

WHEREAS, The Legislature has created a motor vehicle emissions inspection program for the South Coast Air Basin; and

WHEREAS, The Legislature has also created a Joint Committee on Motor Vehicle Inspections to serve as a liaison between the Legislature and the various executive agencies implementing the program; and

WHEREAS, This joint committee will be receiving recommendations from executive agencies based on evaluation of technical data relative to the motor vehicle emissions inspection program; and

WHEREAS, The joint committee will be in need of independent, technical assistance in evaluating these recommendations and data; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a technical advisory panel is hereby created and authorized to consult with and advise the Joint Committee on Motor Vehicle Inspections on matters relating to motor vehicle emissions inspection; and be it further

Resolved, That the panel shall consist of not more than 15 members appointed by the Chairman of the Joint Committee on Motor Vehicle Inspections to represent technical expertise and public interest; and be it further

Resolved, That the Chairman of the Joint Committee on Motor Vehicle Inspections shall appoint a chairman to the technical advisory panel and that the panel and each of its members shall serve, without compensation and reimbursement for expenses, at the pleasure of the chairman of the joint committee; and be it further

Resolved, That the panel shall have the following powers and duties:

(a) To meet at the call of its chairman or the chairman of the joint committee.

(b) To elicit information from the public and from officials of any public agency on matters concerning its responsibilities in regard to motor vehicle emissions inspection.

(c) To transmit its advice and recommendations with respect to motor vehicle emissions inspection programs to the Joint Committee on Motor Vehicle Inspections, and to undertake such studies as may be requested by the chairman of the joint committee.

RESOLUTION CHAPTER 10

Senate Joint Resolution No. 20—Relative to extension of the Voting Rights Act of 1965.

[Filed with Secretary of State February 10, 1976.]

WHEREAS, The Voting Rights Act of 1965, as amended by Public Law 94-73, is necessary in order to extend full voting rights to non-English-speaking persons residing in California; and

WHEREAS, The Congress of the United States has a greater financial ability than state or local governments to appropriate money for the purpose of insuring full compliance with the Voting Rights Act of 1965, as amended by Public Law 94-73; 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 Congress of the United States to appropriate all of the funds necessary to insure full compliance with the Voting Rights Act of 1965, as amended by Public Law 94-73; 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.

RESOLUTION CHAPTER 11

Senate Joint Resolution No. 42—Relative to increasing federal child day care funds.

[Filed with Secretary of State February 23, 1976.]

WHEREAS, Title XX of the Social Security Act incorporates all of the social services features of the former public welfare categories of the Social Security Act; and,

WHEREAS, The State of California operates most of its social services programs with federal funding under Title XX; and,

WHEREAS, The Congress of the United States has placed a ceiling on the amount of federal assistance a state may receive under Title XX; and,

WHEREAS, Approximately 20 percent of the social services funding in California is used for child day care services; and,

WHEREAS, There is an increasing concern by parents, family day care and group day care operators, both public and private, large and small, that there is sufficient federal funding available to meet federal child day care standards and to provide services to families needing child day care; and,

WHEREAS, Legislation currently pending before the Congress of the United States, now in a House-Senate conference committee, would increase federal funds available for child day care services under Title XX of the Social Security Act at the current federal interagency day care requirements for staff-child ratios; 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 enact and implement the legislation currently pending before Congress which would increase funds available for child day care services under Title XX of the Social Security Act; 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 and to the House-Senate conference committee currently considering legislation that would increase child day care funds under Title XX of the Social Security Act.

RESOLUTION CHAPTER 12

Senate Concurrent Resolution No. 66—Relative to the Joint Rules.

[Filed with Secretary of State February 25, 1976.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Rule 37 of the Temporary Joint Rules of the Senate and Assembly for the 1975–76 Regular Session be amended to read:

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

566 287570 124

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 certifiction 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.

Neither the Rules Committee of either house nor the Joint Rules Committee shall assign any matter for study to the Joint Legislative Budget Committee or the Legislative Analyst without first obtaining from the Joint Legislative Budget Committee an estimate of the amount required to be expended by it to make the study.

Any concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Budget committee or to the Legislative Analyst shall be referred to the respective Rules Committees. Before the committees shall act upon or assign such resolution they shall obtain an estimate from the Joint Legislative Budget Committee of the amount required to be expended to make the study.

566 287595 129

RESOLUTION CHAPTER 13

Senate Joint Resolution No. 31—Relative to civil service retirement benefits for interned Japanese-Americans.

[Filed with Secretary of State February 26, 1976.]

WHEREAS, The Congress is considering legislation which would grant federal civil service retirement credit to Japanese-Americans for time spent in World War II internment camps; and

WHEREAS, The State of California presently grants credit under retirement plans to state employees who spent time in such relocation camps; 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 Congress to enact legislation to provide for retirement credit to Japanese-Americans for time spent in World War II internment camps; 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 14

Assembly Concurrent Resolution No. 110—Relative to free public transit for older Californians.

[Filed with Secretary of State March 5, 1976.]

WHEREAS, California's millions of residents over 62 years of age comprise one of the state's most valued resources; and

WHEREAS, The Legislature of the State of California through past and present social action assumes a role of responsibility to promote policies, programs, and public services to accommodate the interests, needs, and well-being of all older Californians; and

WHEREAS, The mobility of older persons is essential to their well-being, whether it is a visit to their physician, or for shopping or social visits; and

WHEREAS, The elderly would greatly benefit from free public transit service since it would give them independence, greater mobility, and a happier, more active life; and

WHEREAS, Since most elderly people are required to budget their activities on a small, fixed, and inadequate income, they cannot afford to pay transportation costs which may become excessive when additional transfer costs are included; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate

thereof concurring, That the Legislative Analyst is hereby requested to conduct a study of the impact on revenues of public transit operators in providing free transit services during nonpeak hours between 10 a.m. and 2 p.m. Monday through Friday to senior citizens over 62 years of age, and to submit his findings and recommendations to the Legislature not later than January 10, 1977, and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Legislative Analyst.

RESOLUTION CHAPTER 15

Assembly Concurrent Resolution No. 91—Relative to the Lamont Odett Scenic Vista Point.

[Filed with Secretary of State March 5, 1976.]

WHEREAS, Lamont Odett has been a resident of Palmdale in the Antelope Valley since 1958; and

WHEREAS, In 1958 he was appointed Chairman of the Antelope Valley Freeway Committee of the then Antelope Valley Progress Association; and

WHEREAS, He has served continuously in this capacity, and is still active in the encouragement of transportation in the Antelope Valley; and

WHEREAS, While serving as chairman of the freeway committee, State Highway Route 14, including that portion designated as the Antelope Valley Freeway, from State Highway Route 5 (the Golden State Freeway) to the Los Angeles-Kern County line, was constructed; and

WHEREAS, He has shown outstanding leadership in directing the activities of the freeway committee toward its ultimate goal of completing the Antelope Valley Freeway; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the scenic vista point located on State Highway Route 14 south of Avenue S in Antelope Valley in the County of Los Angeles is hereby designated the Lamont Odett Scenic Vista Point; and be it further

Resolved, That 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.

191 28825 143

RESOLUTION CHAPTER 16

Assembly Joint Resolution No. 31—Relative to tuna tariffs.

[Filed with Secretary of State March 5, 1976.]

WHEREAS, The United States International Trade Commission is holding hearings on the subject of eliminating or reducing the tariffs on tuna products; and

WHEREAS, While the United States tuna industry has prospered in recent years, foreign caught frozen tuna and canned tuna imports have maintained a 60-percent share of the tuna market in the United States, mainly through the import of duty-free frozen raw tuna as canned imports represent only 7 percent of the United States canned tuna sales which totals $750,000,000 annually; and

WHEREAS, The domestic processing industry, its infrastructure, and their total labor force of nearly 28,000 persons are protected by the present tariff on processed tuna products; and

WHEREAS, The United States tuna industry is an extremely important factor in California's economy having as part of its impact the creation of 67 positions of employment in nonfishing related service industries for every 100 fishing positions of employment in San Diego alone; and

WHEREAS, The elimination or reduction in the present tariff structure would adversely affect California's fishing industry to the detriment of its fishermen, those employed in the processing industry, and those employed in unrelated service industries; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectively memorializes the United States International Trade Commission, the Congress of the United States, and the President of the United States to insure the continual viability of the United States tuna industry through the protection of the present tariff rates on canned tuna and competitive products; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the United States International Trade Commission, 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

Senate Concurrent Resolution No. 67—Relative to the Roscoe E. Hazard Memorial Bridge.

[Filed with Secretary of State March 8, 1976.]

WHEREAS, Roscoe E. Hazard, a very well-known contractor and rancher in San Diego, recently passed away at the age of 95; and

WHEREAS, "Pappy" Hazard, as he was affectionately known, was an outstanding member of the community and the state; and

WHEREAS, He was born on his father's cattle ranch near Globe, Arizona, and knew and loved horses from the time he was a boy; and

WHEREAS, He collected and established an extremely valuable museum which is now located in Old Town in San Diego, and which he donated to the state for the enjoyment of all its citizens; and

WHEREAS, He constructed many of the highways in southern California; and

WHEREAS, Because of his many remarkable achievements and occupation, it is fitting that a highway structure be named after him; and

WHEREAS, The Adams Avenue Bridge over State Highway Route 805 in San Diego has won an architectural award, and would be a fitting memorial to Roscoe E. Hazard; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Adams Avenue Bridge over State Highway Route 805 in the City of San Diego is hereby designated the Roscoe E. Hazard Memorial Bridge; and be it further

Resolved, That the Department of Transportation be directed to erect appropriate signs and markers, consistent with signing requirements for the state highway system, showing this official designation; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 18

Assembly Concurrent Resolution No. 111—Relative to state railroad transportation planning.

[Filed with Secretary of State March 8, 1976.]

WHEREAS, California's railroads are vital to the economy of the state and its agriculture and industry, and with sound planning can continue to serve as important and viable common carriers for the public good; and

WHEREAS, Rail transportation provides promising solutions to some very immediate problems, involving the environment, energy conservation, and cost considerations, as well as being a transportation mode that can handle large volumes at low cost and with minimum environmental degradation; and

WHEREAS, The economic difficulties of the railroads in the eastern and midwestern United States are indicative of the underlying problems being experienced by all of the nation's

railroads due to past indifference on the part of government in failing to recognize and encourage railroads pursuant to the same standards as highway, air, and other modes of transportation; and

WHEREAS, Congress has recognized the need for maintaining and improving the railroads by creation of the Federal Railroad Administration, which has initiated rail planning activities to insure the best use of federal funds for maintaining and improving railroad facilities and services and is presently considering a number of bills that will have important impacts on California's railroads, if enacted; and

WHEREAS, Many eastern states have created rail planning agencies for improving their existing railroads and to work with the federal government in federal improvement programs; and

WHEREAS, It is time that California began to recognize the significance and importance of rail transportation, to identify what this state's rail transportation needs are, and to work with the federal government to improve the rail system in California; and

WHEREAS, It is necessary that California establish a state rail transportation policy and undertake its own rail planning effort for the purpose of maintaining the viability of California's railroads and to improve rail service for the transportation of people and goods; and

WHEREAS, Authority to conduct rail planning in California is vested in the State Department of Transportation pursuant to Section 14040 of the Government Code which provides that the department shall prepare the California Transportation Plan directed at the achievement of a coordinated and balanced transportation system for the state, including, but not limited to mass transportation, highway, aviation, maritime, and railroad facilities and services, whether public or private, consistent with the state's social, economic, and environmental needs and goals; and

WHEREAS, No comprehensive rail planning has been undertaken in this state to date, no rail planning personnel classifications exist and but little expertise in this area is available within the Department of Transportation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California does hereby acknowledge the necessity of maintaining the vitality of California's railroads and their contribution to the public and proclaim the timeliness of undertaking state rail transportation planning to assist California's railroads in continued and productive rail service; and be it further

Resolved, That the Legislature requests the Department of Transportation to ensure that personnel with rail transportation experience are included in the planning effort devoted to the rail transportation element of the California Transportation Plan; and be it further

Resolved, That the State Transportation Board is requested to consider tradeoffs in the department's work program for the

diversion of Transportation Planning and Research Account funds to the rail transportation planning effort; and be it further

Resolved, That the Department of Transportation is requested to ensure that state rail transportation planning is integrated into the updated California Transportation Plan, and to prepare a proposal for the purpose of soliciting and receiving rail transportation planning funds from the federal government including therein a conceptual description of the intended rail transportation planning program in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies to the Department of Transportation and the State Transportation Board.

RESOLUTION CHAPTER 19

Assembly Concurrent Resolution No. 82—Relative to directional signs to Reedley College and to West Hills Community College.

[Filed with Secretary of State March 15, 1976.]

WHEREAS, Reedley College and West Hills Community College are located in a particularly difficult-to-find location; and

WHEREAS, There are no directional signs on State Highway Route 99 and Interstate Route 5 to guide the public traveling on those routes desiring to go to the colleges; and

WHEREAS, These colleges are of great importance to the Coalinga and Reedley areas, and of high regional significance to the State of California; 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 erect directional signs to Reedley College on State Highway Route 99 at or near the Manning Avenue exit; and be it further

Resolved, That the Department of Transportation is hereby requested to erect directional signs to West Hills Community College on Interstate Route 5 at or near the State Highway Routes 145 and 198 exits; 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 Joint Resolution No. 30—Relative to water quality of international streams.

[Filed with Secretary of State March 15, 1976.]

WHEREAS, Public Law 92-500 amended the Federal Water Pollution Control Act (Chapter 26 (commencing with Section 1251) of Title 33 of the United States Code) in 1972 and thereby established as national goals the elimination of discharge of pollutants into waters of the United States by 1985, the prohibition of discharge of toxic pollutants in toxic amounts, and the development and implementation of areawide waste treatment management to assure adequate control of the source of pollutants in each state; and

WHEREAS, California is authorized to administer its own permit program for discharges into waters of the United States within its jurisdiction, thereby assuming responsibility for achieving national water quality goals within California; and

WHEREAS, Waste discharge requirements prescribed by California's Regional Water Quality Control Boards and State Water Resources Control Board for waste discharges into waters of the United States, including such international streams as New River and Tijuana River, must implement federal interstate water quality standards and the requirement of the Federal Water Pollution Control Act that municipal sewage discharges receive secondary treatment; and

WHEREAS, Cities in Mexico, such as Mexicali and Tijuana, discharge inadequately treated wastes into international streams which adversely affect beneficial uses in California; and

WHEREAS, Wastes discharged in Mexico into such international streams must be adequately treated if beneficial uses are to be preserved and national water quality goals achieved in California for the waters of such streams; and

WHEREAS, Funds expended by California municipalities in meeting the secondary treatment requirement of the Federal Water Pollution Control Act will be wasted as to discharges into such international streams unless discharges from Mexican cities into such streams receive adequate treatment; 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 Secretary of State of the United States to seek an executive agreement with the United Mexican States to provide assistance in implementing waste treatment programs to the Cities of Mexicali and Tijuana, and any other Mexican cities which may discharge wastes to international streams which affect beneficial uses of waters of the United States in 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, to the Secretary of State of the United States, to the Administrator of the Environmental Protection Agency, to the International Boundary and Water Commission, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 21

Assembly Joint Resolution No. 38—Relative to aircraft noise abatement.

[Filed with Secretary of State March 15, 1976.]

WHEREAS, Aircraft noise is a serious problem which afflicts many communities in the State of California, and the high noise level experienced by citizens living adjacent to airports constitutes a danger to the public health and welfare, and has caused losses in property values in neighborhoods located near airports; and

WHEREAS, Congress has passed legislation authorizing and directing the Federal Aviation Administration to take appropriate action to reduce aircraft noise from new and existing jet aircraft, and the F.A.A. has adopted noise standards for aircraft (Title 14, Code of Federal Regulations, Part 36); and

WHEREAS, Numerous technological advances have been made in the development of new aircraft engines which achieve much lower noise levels than older jets, and other technological developments permit the quieting of older jet engines through retrofitting of sound-absorbing material; and

WHEREAS, Recent studies conducted under the auspices of the Federal Aviation Administration have clearly demonstrated that reduction of aircraft noise can be accomplished without excessive expense and without adversely affecting safety through such methods as aircraft engine retrofit and the two-segment approach procedure; and

WHEREAS, The implementation of aircraft noise reduction devices and procedures will not cause excessive financial burdens to the aviation industry, since the costs can be recovered through such methods as passenger surcharges or the use of surplus funds in the Aviation Trust Fund; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Administrator of the Federal Aviation Administration is respectfully memorialized to require at the earliest possible date the installation of sound-absorbing material retrofit on transport category civil aircraft in order to reduce the noise levels of such aircraft to or below the standards set by the aircraft noise standards of the Federal Aviation Administration as they currently apply to newly manufactured aircraft, and, in addition, to require two-segment and other appropriate noise abatement operating procedures, in order to assure that existing jet aircraft employ the most advanced noise reduction techniques available; and be it further

Resolved, That copies of this resolution be transmitted 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

Administrator of the Federal Aviation Administration.

RESOLUTION CHAPTER 22

Assembly Joint Resolution No. 42—Relative to inspection of meat by the United States Department of Agriculture.

[Filed with Secretary of State March 15, 1976.]

WHEREAS, At the present, the state meat inspection regulations make no provision for any restaurant to make a gift of uncooked meat, in substantial quantity, to charitable organizations; and

WHEREAS, The problem of food for the needy and the aged has become more and more acute; and

WHEREAS, Certain restaurants which serve only "portion trimmed" steaks have many pounds of trimmed meat which they would gladly supply to charitable organizations; and

WHEREAS, This same trimmed meat could legally be cooked and served in such restaurants, but, at the present, may not be donated to charitable organizations as uncooked meat due to the complexity or ambiguity of the present meat inspection regulations; and

WHEREAS, The law specifically authorizes the Secretary of Agriculture to modify the regulations when, in his opinion, there is good and sufficient reason to make such modification; 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 and the Secretary of Agriculture to take all the necessary actions to modify the present meat inspection regulations to permit any restaurant to donate any amount of uncooked wholesome, unadulterated meat to any charitable organization; 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 Agriculture, 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 23

Assembly Concurrent Resolution No. 97—Relative to the impact of state paperwork requirements on small business.

[Filed with Secretary of State March 16, 1976.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Assembly Office of Research shall identify the direct cost to a small business when complying with state paperwork requirements and shall report its findings to the Governor and the Legislature no later than three months after the effective date of this measure.

For the purposes of the provisions of this measure, the term "small business" means a business which is independently owned and operated, and which is not dominant in its field of operation. In addition:

(a) A concern shall not qualify as a small business if it is an affiliate of another concern that would not be considered a small business or their affiliation would not be considered a small business.

(b) A nonmanufacturer shall not qualify as a small business if its number of employees exceeds twenty-five (25) or its annual receipts are more than one million dollars ($1,000,000).

(c) A manufacturer shall not qualify as a small business if its number of employees exceeds fifty (50) or its annual receipts are more than five million dollars ($5,000,000).

RESOLUTION CHAPTER 24

Assembly Constitutional Amendment No. 90—A resolution calling upon the Secretary of State to make amendments in Assembly Constitutional Amendment No. 40 (Resolutions Chapter 5 of the Statutes of 1976).

[Filed with Secretary of State March 18, 1976.]

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 directs the Secretary of State to make the following amendments in Assembly Constitutional Amendment No. 40 of the 1975–76 Regular Session, as enrolled, (Resolutions Chapter 5 of the Statutes of 1976):

AMENDMENT 1

In line 10 of the title of the printed measure, as enrolled, after "Section 28", insert ", and the headings immediately preceding Sections 22 and 28".

AMENDMENT 2

In line 15 of the title, strike out "Section 1", and insert "Section 1.5".

AMENDMENT 3

On page 4, line 34, strike out "Assemblymen", and insert "members of the Assembly".

AMENDMENT 4

On page 5, line 23, strike out "his", and insert "the officer's".

AMENDMENT 5

On page 5, line 25, strike out "him", and insert "the officer".

AMENDMENT 6

On page 20, lines 6 and 7, strike out "of Division VI of the Agricultural Code in loaning or advancing".

AMENDMENT 7

On page 20, lines 35, 36, and 37, strike out "Section 1 is added to the Article XX, to read:

SECTION 1.", and insert "Section 1.5 is added to Article XX, to read:

SEC. 1.5."

AMENDMENT 8

On page 22, between lines 10 and 11, insert

Fifty-sixth—That the heading immediately preceding Section 22 of Article IV is repealed.

Fifty-seventh—That the heading immediately preceding Section 28 of Article IV is repealed.

AMENDMENT 9

On page 22, strike out lines 11 to 19, inclusive.

RESOLUTION CHAPTER 25

Senate Concurrent Resolution No. 59—Relative to State Highway Route 90.

[Filed with Secretary of State March 18, 1976]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That State Highway Route 90 is hereby officially redesignated and named the Marina Freeway; and be it further

Resolved, That the Division of Highways in the Department of Transportation is hereby requested to erect and maintain appropriate signs on such portion of the highway upon its construction as a freeway, showing the official designation; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this

559 288290 196

resolution to the Director or Transportation.

RESOLUTION CHAPTER 26

Assembly Concurrent Resolution No. 155—Relative to the Public Officers Compensation Commission.

[Filed with Secretary of State March 29, 1976.]

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; and

WHEREAS, Such study and evaluation was undertaken by the Public Officers Compensation Commission, created by Resolution Chapter 130 of the Statutes of 1975, and while the existence of the commission lapsed, the need for further study and recommendation continues; 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. The commission created by this measure shall be successor to the commission created by Resolution Chapter 130 of the Statutes of 1975, and the persons who were serving on such prior commission on February 29, 1976, shall also serve on the successor commission. In addition, the person who served as Chairman of the Commission on California State Government Organization and Economy on the effective date of Resolution Chapter 130 of the Statutes of 1975 shall serve as chairman of the commission created by this measure.

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, the members of the State Board of Equalization 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 May 15, 1976. As of May 16, 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. An amount of money equal to the money allocated to the commission created by Resolution Chapter 130 of the Statutes of 1975 and which was unexpended upon the termination of that commission and reverted to the Contingent Funds of the Assembly and Senate, is hereby allocated from such funds for expenditure by the commission created by this measure. Unexpended money, upon expiration of this commission, shall revert to the Contingent Funds of the Assembly and Senate.

RESOLUTION CHAPTER 27

Assembly Joint Resolution No. 64—Relative to the transfer of state employees to federal employment.

[Filed with Secretary of State March 29, 1976.]

WHEREAS, The Wholesome Meat Act (P.L. 90-201) mandates standards for meat inspection for the various states; and

WHEREAS, The federal government reimburses the states through contracts for 50 percent of the cost of performance of meat inspection; and

WHEREAS, California will transfer its program to the federal government as of April 1, 1976; and

WHEREAS, The procedure for transferring this program will include the offering by the United States Department of Agriculture of job opportunities to California state workers but will also result in significant personal financial losses, as follows:

(a) The federal offer allows no credit for time in grade, which would result in starting pay of as much as 20 percent less than the employee is currently receiving under the state-federal contract;

(b) Termination of Social Security coverage six months after transfer to federal service;

(c) Loss of sick leave benefits and vacation credits;

(d) Impairment of long-term retirement benefits due to break in employment and lack of reciprocity between state and federal retirement systems;

(e) If the federal offer of a position requires relocation of the employee, such expenses are not paid; 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, the President of the United States, the Secretary of Agriculture, and the United States Civil Service Commission to take immediately all necessary actions that will protect employees of states transferring to federal employment from the above-mentioned losses in pay and benefits and to give immediate attention to legislation, introduced by Congressman William M. Ketchum, providing for certain benefits to state meat and poultry inspectors who are transferred to federal service; 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, to the Secretary of Agriculture, to each Senator and Representative from California in the Congress of the United States, and to the United States Civil Service Commission.

RESOLUTION CHAPTER 28

Senate Concurrent Resolution No. 41—Relative to Medi-Cal fees.

[Filed with Secretary of State March 29, 1976.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Department of Health reexamine its fee schedules for reimbursement to medical providers of Medi-Cal services in light of the high cost of medical malpractice insurance; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the State Department of Health; and be it further

Resolved, That such department report its findings and recommendations to the Legislature by May 15, 1976.

RESOLUTION CHAPTER 29

Senate Joint Resolution No. 40—Relative to revenue sharing.

[Filed with Secretary of State March 29, 1976.]

WHEREAS, The General Revenue Sharing Program enacted by Congress is due to expire on December 31, 1976; and

WHEREAS, This program has proven generally effective as a national stimulus to decentralize public decisionmaking on domestic affairs from the federal level to the state and local levels where individual citizens may exercise a greater voice in the expenditure of tax dollars; and

WHEREAS, The program has proven generally effective as an assistance to state and local government jurisdictions in the maintenance of essential public services at adequate levels during periods of rising costs; and

WHEREAS, The program has enabled state and local governmental jurisdictions to provide important new public services and facilities which would be otherwise infeasible in the face of rising costs and increased tax burdens on available state and local revenue sources; and

WHEREAS, The pending expiration of the program poses a serious threat to the continuance of many vital public services provided to the people of California through state and local governmental agencies; and

WHEREAS, Orderly state and local government budget planning procedures require that decisive action with respect to the program beyond the pending expiration date be taken prior to the beginning of the 1976–77 fiscal year; and

WHEREAS, President Gerald Ford has proposed, and Members of the Congress have introduced, federal legislation proposing

reasonable appropriations and authority to extend the program through October 1, 1982; 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 expedite and assure the passage of appropriate legislation as soon as is feasible under the provisions of the Congressional Budget Act of 1974 (P.L. 93-344, Titles I to IX, incl.), in order that the General Revenue Sharing Program currently serving the vital interests of the people of California not be precipitously terminated; 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 30

Assembly Concurrent Resolution No. 130—Relative to the California Law Revision Commission.

[Filed with Secretary of State March 31, 1976.]

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 1975, 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 nonprofit corporations should be revised;

(2) 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;

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

(4) Whether the Evidence Code 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 liquidated damages in contracts generally, and particularly in leases, should be revised;

(7) Whether the law relating to modification of contracts should be revised;

(8) Whether the law relating to transfer of out-of-state trusts to California should be revised;

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

(10) 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 class actions should be revised;

(4) Whether the law relating to offers of compromise should be revised;

(5) Whether the law relating to discovery in civil cases should be revised;

(6) Whether the law relating to possibilities of reverter and powers of termination should be revised;

(7) Whether a Marketable Title Act should be enacted in California and 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;

Topics Continued on Calendar for Further Study

(1) Whether the law relating to arbitration should be revised:

(2) Whether the law relating to the escheat of property and the disposition of unclaimed or abandoned property 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 the rights and duties attendant upon termination or abandonment of a lease should be revised;

(5) 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; 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; 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 31

Assembly Joint Resolution No. 55—Relative to wine labeling.

[Filed with Secretary of State April 5, 1976]

WHEREAS, A proposal was made by the Bureau of Alcohol, Tobacco and Firearms to impose ingredient labeling on wine containers; and

WHEREAS, An extended administrative hearing was held in Washington, D.C. on April 29, 1975, at which time extensive testimony was offered not only by industry members of the United States but by witnesses from foreign governments; and,

WHEREAS, Such testimony found that ingredient labeling was not only unnecessary and not in the best interests of the consumer but would actually tend in many instances to mislead the consumer as well as impose extraordinary and inflationary costs in its implementation, with especially disastrous consequences for small wineries; and

WHEREAS, At said hearing no proponents appeared and offered any testimony; and

WHEREAS, The Bureau of Alcohol, Tobacco and Firearms after due consideration determined that ingredient labeling should not be imposed upon the wine industry; and

WHEREAS, The Food and Drug Administration has in spite of these facts ordered ingredient labeling to be imposed as of January 1, 1977; and

WHEREAS, Exemptions from the ingredient labeling requirement of the Federal Food, Drug, and Cosmetic Act are

authorized in appropriate cases; and

WHEREAS, The Bureau of Alcohol, Tobacco and Firearms has maintained effective control over wine production, marketing and labeling under the Federal Alcohol Administration Act for decades and the intercession of the Food and Drug Administration in this matter appears unnecessary, wasteful and inflationary on the costs of wine to the industry and the consumer; and

WHEREAS, There has been no showing of benefit or need to the industry or the consumer; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California does hereby petition the Food and Drug Administration to reconsider its position, and in view of all the facts rescind its action requiring ingredient labeling of wine; 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 each Senator and Congressman from California and to the Food and Drug Administration.

RESOLUTION CHAPTER 32

Senate Joint Resolution No. 46—Relative to wine standards.

[Filed with Secretary of State April 14, 1976.]

WHEREAS, The State of California enjoys world renown as one of the truly great wine-producing regions; and

WHEREAS, The Legislature of the State of California recognizes the vital importance of the wine industry to the economy of the State of California; and

WHEREAS, The Legislature favors the concept that wine consumers be afforded adequate information relative to their purchases; and

WHEREAS, The Legislature recognizes and endorses the long-standing expertise and efficiency of the Federal Bureau of Alcohol, Tobacco and Firearms in regulating wine appellations of origin; and

WHEREAS, The Legislature also favors the concept that the Federal Bureau of Alcohol, Tobacco and Firearms should have the benefit of the advice of local growers, processors, and enological experts in winegrowing regions within each of the states as to appropriate standards and guidelines for granting appellations of origin; 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 Bureau of Alcohol, Tobacco and Firearms to continue its traditional function of enforcing standards for appellations of origin

646 288490 236

for wine and that it retain final appellations authority; and be it further

Resolved, That this Legislature urges and strongly encourages the Federal Bureau of Alcohol, Tobacco and Firearms to initiate and apply the procedure hereinabove set forth for establishing appellations of origin where the grapes are grown and where the wine is produced; and be it further

Resolved, That such wine appellations established by the Federal Bureau of Alcohol, Tobacco and Firearms be sufficiently precise as to permit the wine consumer to have adequate information concerning the origin of his wine purchases; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of the Treasury and to the Federal Bureau of Alcohol, Tobacco and Firearms.

RESOLUTION CHAPTER 33

Assembly Concurrent Resolution No. 149—Relative to the Huntington Beach Fourth of July Parade.

[Filed with Secretary of State April 20, 1976.]

WHEREAS, The Huntington Beach Fourth of July Parade began in 1904 under the sponsorship of the city's chamber of commerce, and since that time it has developed and grown into the largest parade and celebration in California other than the Pasadena Tournament of Roses; and

WHEREAS, Over the years the parade itself has been accompanied by a wide variety of interesting and enjoyable activities for the people of California, such as concerts, beauty contests, vaudeville entertainment, fireworks, airshows, dances, automobile races, baseball games, wild west rodeos, and picnics; and

WHEREAS, The consistent relevance of the Huntington Beach Fourth of July Parade to our nation's history is illustrated by the theme of "California's Golden Centennial" in 1950, "Pageantry and Portrayal of Famous American Presidents" in 1956, the "Spirit of '76" in 1965, "Achievements of our American Youth" in 1970, and "America the Beautiful" in 1971; and

WHEREAS, Last year more than 800,000 people attended the Huntington Beach Fourth of July Parade, and this year an even larger crowd is anticipated; and

WHEREAS, The 1976 parade will be the biggest yet, with 35 floats, over 29 marching bands, and many other activities, under the excellent leadership of the Huntington Beach Jaycees and the outstanding sponsorship of the City of Huntington Beach; and

WHEREAS, The Jaycees have been conducting the parades since 1965, and this year Steve Pressley is in charge of the event; and

1149 288520 242

WHEREAS, This year's grand marshal is Earl Holliman, and he will be joined by a host of other celebrities headlining the event, which will be seen on local and national television; and

WHEREAS, There will be 13 divisions in the parade this year instead of the normal eight, with each division carrying the name of one of the 13 original states, in honor of this year's bicentennial theme, "Let Freedom Ring"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Huntington Beach Fourth of July Parade is hereby adopted as the Bicentennial Parade of the State of California.

RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 150—Relative to Indian health services.

[Filed with Secretary of State April 23, 1976.]

WHEREAS, The State Department of Health is required to maintain a health program for Indians and their families, consisting of studies of health and health services, technical and financial assistance to local agencies concerned with the health of Indians and their families, and coordination with similar programs of the federal government, other states, and voluntary agencies; and

WHEREAS, The State Department of Health is authorized to contract and cooperate with local governmental agencies and voluntary nonprofit organizations in connection with the development of local health programs for Indians and their families; and

WHEREAS, In Chapter 606 of the Statutes of 1975, the Legislature appropriated two million five hundred thousand dollars ($2,500,000) to the State Department of Health for purposes of Indian health programs and, among other things, to provide, by contract or grant or any combination thereof, financial, training, and technical assistance to existing urban and rural Indian health programs and to assist such programs in planning, implementing, and upgrading existing programs to attain a comprehensive health services delivery system for Indians in urban and rural areas; and

WHEREAS, The department is required to adopt rules and regulations establishing criteria for reimbursement for direct services, including a definition of direct services which are reimbursable and a formula for the allocation of funds so appropriated; 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 proceed to implement fully Chapter 606 of the Statutes of 1975,

1150 288545 247

including the execution of contracts or grants, or advances thereon, or a combination thereof, to provide the needed financial assistance for a comprehensive health services delivery system for Indians in urban and rural areas; 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 35

Senate Constitutional Amendment No. 14—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending subdivisions (a) and (f) of Section 9 of Article IX thereof, relating to the University of California.

[Filed with Secretary of State April 26, 1976.]

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 (a) of Section 9 of Article IX is amended to read:

SEC. 9. (a) The University of California shall constitute a public trust, to be administered by the existing corporation known as "The Regents of the University of California," with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services. Said corporation shall be in form a board composed of seven ex officio members, which shall be: the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the president and the vice president of the alumni association of the university and the acting president of the university, and 18 appointive members appointed by the Governor and approved by the Senate, a majority of the membership concurring; provided, however that the present appointive members shall hold office until the expiration of their present terms.

Second—That subdivision (f) of Section 9 of Article IX is amended to read:

(f) The Regents of the University of California shall be vested with the legal title and the management and disposition of the

714 288575 253

property of the university and of property held for its benefit and shall have the power to take and hold, either by purchase or by donation, or gift, testamentary or otherwise, or in any other manner, without restriction, all real and personal property for the benefit of the university or incidentally to its conduct; provided, however, that sales of university real property shall be subject to such competitive bidding procedures as may be provided by statute. Said corporation shall also have all the powers necessary or convenient for the effective administration of its trust, including the power to sue and to be sued, to use a seal, and to delegate to its committees or to the faculty of the university, or to others, such authority or functions as it may deem wise. The Regents shall receive all funds derived from the sale of lands pursuant to the act of Congress of July 2, 1862, and any subsequent acts amendatory thereof. The university shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs, and no person shall be debarred admission to any department of the university on account of race, religion, ethnic heritage, or sex.

RESOLUTION CHAPTER 36

Assembly Concurrent Resolution No. 123—Relative to San Joaquin River flood control.

[Filed with Secretary of State April 28, 1976.]

WHEREAS, Resolution Chapter 163, Statutes of 1974 (Assembly Concurrent Resolution No. 225) requested the Department of Water Resources and the Reclamation Board to jointly study the flood control operation and maintenance problems on the San Joaquin River between Friant Dam and the deepwater channel at Stockton; and

WHEREAS, The Legislature directed that the joint study include evaluations of the feasibility, desirability, and estimated cost of initial channel clearance and annual maintenance costs; and

WHEREAS, A draft copy of the joint study has now been prepared by the Department of Water Resources and the Reclamation Board; and

WHEREAS, It has been estimated that the initial cost of channel clearance on the San Joaquin River between Friant Dam and the deepwater channel at Stockton will be $2,883,390, plus $35,000 for the preparation of an environmental impact report; and

WHEREAS, The cost for channel maintenance is estimated to be approximately $123,200 annually; and

WHEREAS, The flood plain of the San Joaquin River has been extensively developed for agricultural, recreational, and commercial purposes; and

WHEREAS, Such development contributes materially to the economy of the State of California and to the food supply of the people of this state and nation; and

WHEREAS, Flood flows on the San Joaquin River cannot be fully controlled by Friant Dam and periodically result in damage to agricultural lands, recreational development, and other commercial operations; and

WHEREAS, Such flood damage is in part attributable to higher than normal water surfaces resulting from snags and channel clogging; and

WHEREAS, The flood control problems on the San Joaquin River are of grave concern to the Boards of Supervisors of the Counties of San Joaquin and Stanislaus and to the legislators representing this area; and

WHEREAS, A program of channel clearance and maintenance would lower water elevations and result in a substantial reduction in flood damage along the San Joaquin River; and

WHEREAS, The boards of supervisors of the affected counties have requested that the State of California undertake initial channel clearance on the San Joaquin River between Friant Dam and the deepwater channel at Stockton; and

WHEREAS, There may be alternatives to channel clearance, or other measures which should be combined with channel clearance; and

WHEREAS, Maintenance of the completed project works is a responsibility of the area benefited by the project in accordance with existing state policy; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Water Resources, the Department of Fish and Game, the Reclamation Board, the Department of Parks and Recreation, and the State Lands Commission, under the coordination of the Resources Agency, is requested to study the various actions which might be undertaken by state, federal and local interests with respect to the flood control problems on the San Joaquin River between Friant Dam and the deepwater channel at Stockton, and to report thereon to the Legislature by January 1, 1977, together with their recommendations for solution of the problem and the allocation of responsibilities and costs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Water Resources, the Department of Fish and Game, the Reclamation Board, the Department of Parks and Recreation, the State Lands Commission, the Resources Agency, and to the Boards of Supervisors of San Joaquin and Stanislaus County.

1123 288615 261

RESOLUTION CHAPTER 37

Assembly Joint Resolution No. 70—Relative to the Smithsonian Institution.

[Filed with Secretary of State May 4, 1976.]

WHEREAS, California is the Union's most populous state, rich in natural, cultural, and technological history; and

WHEREAS, Historic Sacramento is the capitol of California, site of the terminus of the Pony Express and original railhead of the great transcontinental railroad, which saw the Central Pacific and Union Pacific Railroads link on May 10, 1869, bringing together the West with the East; and

WHEREAS, Sacramento will soon be the home of the California State Railroad Museum, and possesses, in the California Exposition, an excellent and well-developed prospective site for the location of a western bureau of the Smithsonian Institution; and

WHEREAS, The Smithsonian Institution was founded " . . . for the increase and diffusion of knowledge among men"; and

WHEREAS, The Smithsonian Institution could serve its founding purpose, extending great cultural and educational benefits to the people of California and other western states, by locating a bureau at the California Exposition; and

WHEREAS, A Sacramento bureau of the Smithsonian Institution would provide unique advantages to the many major academic institutions of California and other western states; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of California supports the concept of locating a bureau of the Smithsonian Institution at the California Exposition in Sacramento; and be it further

Resolved, That the California Legislature submit a formal request to the Board of Regents of the Smithsonian Institution that a study be conducted to determine the feasibility of a joint federal-state effort to establish such a bureau, incorporating elements of the California State Railroad Museum; and be it further

Resolved, That the California Legislature assure the Smithsonian Institution of its full cooperation in conducting such a feasibility study; and be it further

Resolved, That the California Legislature respectfully memorialize each member of the California delegation to the United States Congress to support the feasibility study and cooperate in this worthwhile endeavor; and be it further

Resolved, That the California Legislature respectfully request the California executive branch to extend to the Smithsonian Institution its fullest cooperation and support in a feasibility study; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of

this resolution to the Honorable Edmund G. Brown, Jr., Governor of California, to Dr. S. Dillon Ripley, Secretary of the Smithsonian Institution, and to each member of the California delegation to the United States Congress.

RESOLUTION CHAPTER 38

Senate Concurrent Resolution No. 30—Relative to employee benefit counseling.

[Filed with Secretary of State May 4, 1976.]

WHEREAS, An essential element of a sound employee benefit program is adequate provision for informing and counseling employees on the specific benefits available to them and their dependents in case of illness, injury, disability, or death; and

WHEREAS, The total compensation study made for the state by the management consultant firm Cresap, McCormick, and Paget, Inc., in 1973 found that a significant deficiency in the state's benefit program is the lack of counseling for employees with respect to their benefit rights, privileges and options; and

WHEREAS, The full value of the millions of dollars the State of California expends on employee benefits, including the objective of improving employee morale, productivity and well-being may not be realized without adequate employee counseling; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California requests the State Personnel Board in cooperation with the Public Employees' Retirement System, the State Compensation Insurance Fund, Department of Rehabilitation, University of California Regents and California State University and Colleges trustees, to make a comprehensive study of counseling needs of employees with respect to health insurance benefits, retirement benefits, worker's compensation, disability benefits and rehabilitation, and to make recommendations with respect to the staffing and funding requirements for the effective conduct of such a program and report to the Legislature no later than January 10, 1977; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the State Personnel Board, the Public Employees' Retirement System, the State Compensation Insurance Fund, the Department of Rehabilitation, the University of California Regents, and the California State University and College trustees.

RESOLUTION CHAPTER 39

Assembly Joint Resolution No. 61—Relative to the inclusion of owner-occupied mobilehomes in the Housing Assistance Payments Program.

[Filed with Secretary of State May 19, 1976.]

WHEREAS, There have been rapid increases in cost for rental of spaces for owner-occupied mobilehomes which have resulted in hardship on low-income families and the elderly; and

WHEREAS, Owner-occupied mobilehomes do not currently qualify for the Section 8 Housing Assistance Payments Program; 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 and the Secretary of Housing and Urban Development to take all necessary action to include owner-occupied mobilehomes in the Section 8 Housing Assistance Payments Program, so that those applicants meeting the eligibility criteria set by the U.S. Department of Housing and Urban Development and their appropriate local housing authority will be eligible to receive rental assistance to pay for the rental of space under the Section 8 Housing Assistance Payments Program; 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 Housing and Urban Development, 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 40

Senate Joint Resolution No. 47—Relative to full employment.

[Filed with Secretary of State May 19, 1976.]

WHEREAS, The seasonally adjusted California unemployment rate for January 1976 was 10 percent; and

WHEREAS, In January 1976, there were 68,000 more people unemployed in California than there were in December 1975; and

WHEREAS, The Congress is now considering legislation which guarantees all adult Americans able and willing to work the availability of an equal opportunity for useful and rewarding employment; 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

enact such legislation; 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, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 41

Senate Concurrent Resolution No. 57—Relative to the Juan Manuel de Ayala Vista Point.

[Filed with Secretary of State May 26, 1976.]

WHEREAS, Lieutenant Juan Manuel de Ayala was captain of the Spanish Navy Packet Boat "San Carlos," which sailed through the Golden Gate on August 5, 1775, and thus became the first ship of record to anchor in San Francisco Bay; and

WHEREAS, The importance of San Francisco Bay as one of the world's greatest maritime centers may be traced directly to this event that occurred 200 years ago; and

WHEREAS, In due recognition to the historic significance of this event, which has led to the development of the bay and the surrounding lands, appropriate ceremonies were held on August 3, 4, and 5, 1975, to commemorate the 200th anniversary of the opening of San Francisco Bay; and

WHEREAS, These plans include the placement of a permanent historic display in the vista point at the north end of the Golden Gate Bridge; and

WHEREAS, It is most fitting that this vista point, located adjacent to the northbound lanes of State Highway Route 101 at post mile 0.2 ± in Marin County and overlooking San Francisco Bay, be named after Juan Manuel de Ayala in recognition of his achievements; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the vista point located adjacent to State Highway Route 101 at post mile 0.2± in Marin County is hereby officially designated the Juan Manuel de Ayala Vista Point; and be it further

Resolved, That the Department of Transportation is hereby directed to erect and maintain suitable signing at such location indicating:

Juan Manuel de Ayala

VISTA POINT

; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 42

Assembly Joint Resolution No. 40—Relative to the availability of air transportation for handicapped persons.

[Filed with Secretary of State June 1, 1976.]

WHEREAS, The individual's freedom to travel is fundamental to the modern American way of life, with many persons finding it necessary to travel great distances by air for personal or business reasons; and

WHEREAS, According to the Department of Transportation's 1970 Urban Mass Transportation statistics there are approximately 13,390,000 handicapped persons in the United States, representing about 6.31 percent of the nation's total population; and

WHEREAS, A significant proportion of these handicapped persons are veterans of the Vietnam War, attempting to lead normal and productive lives; and

WHEREAS, The federal regulations presently governing the air transport of handicapped persons are vague and open to conflicting interpretations, with the result that some airlines place undue restrictions on the freedom of travel of the handicapped, even to the extent of denying them passage; and

WHEREAS, The Federal Aviation Administration on June 5, 1973 issued an advance notice of proposed rulemaking, known as Regulatory Docket No. 12881, on the subject of possible changes in federal regulations governing the air transport of handicapped persons, and has since been studying proposed revisions of the rules; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Federal Aviation Administration be requested to expedite the issuance of regulations affecting air travel by handicapped persons, and that such rules should be adopted as will safely maximize the transportation of such individuals; 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 Department of Transportation, to the Director of the Federal Aviation Agency, 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

Assembly Concurrent Resolution No. 125—Relative to projected personnel reduction at the Department of Transportation.

[Filed with Secretary of State June 7, 1976.]

WHEREAS, The State of California is experiencing a critical economic situation in which spiraling inflation is combined with totally unacceptable rates of unemployment; and

WHEREAS, The Department of Transportation of the State of California is about to enact a program of extensive personnel cutbacks in an attempt to reconcile the effects of inflation on material, equipment, and operational costs; and

WHEREAS, The personnel cutbacks being considered by the Department of Transportation may involve as many as 6,000 state employees; and

WHEREAS, The effects of such a personnel reduction would be extremely serious for not only the particular employees involved, but for the State of California as a whole; and

WHEREAS, The Legislature of the State of California should exercise every precaution in insuring that the activities of the public sector do not in any way exacerbate the problem of unemployment within the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there be a freeze on hiring new employees for positions with agencies of the State of California which are of the same general classification as positions vacated by Department of Transportation layoffs; and be it further

Resolved, That first priority for all job openings with agencies of the State of California in these same classifications be given to the displaced employees of the State of California, Department of Transportation; and be it further

Resolved, That agencies of the State of California make every effort to accommodate these displaced workers through retraining and vocational adaptation programs wherever possible.

RESOLUTION CHAPTER 44

Assembly Concurrent Resolution No. 92—Relative to State Highway Route 41.

[Filed with Secretary of State June 9, 1976.]

WHEREAS, The only portion of State Highway Route 41 within the City of Fresno constructed as a freeway is from State Highway Route 99 to Divisadero Street; and

WHEREAS, Over 1,200 parcels of real property valued at over $23,000,000 have been acquired for construction of Route 41 as a freeway within Fresno; and

WHEREAS, The construction of Route 41 as a freeway is essential, since the planning of the city street system is dependent upon such construction; and

WHEREAS, The delay in such construction has resulted in traffic congestion on streets paralleling the proposed freeway and carrying traffic in a north-south direction; 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 recognize the efforts made by the City of Fresno to provide for the completion of State Highway Route 41 as a freeway and to consider appropriate means to expedite the construction of that portion of Route 41 within the city as a freeway; 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 45

Senate Concurrent Resolution No. 89—Relative to the Joint Committee on Motor Vehicle Inspections.

[Filed with Secretary of State June 10, 1976.]

WHEREAS, The Legislature has created a mandatory vehicle inspection program; and

WHEREAS, The Legislature has also created and appointed a Joint Committee on Motor Vehicle Inspections to act as a liaison between the Legislature and the various state agencies implementing the program; and

WHEREAS, Executive implementation of this program has been delayed for a period of one to two years from its original date; and

WHEREAS, The joint committee is scheduled to lapse on June 30, 1976, prior to implementation of the program; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Motor Vehicle Inspections is continued in existence until June 30, 1977, notwithstanding the provisions of any prior concurrent resolution affecting the committee. The committee shall continue, until June 30, 1977, 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

589 289195 305

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 46

Senate Concurrent Resolution No. 79—Relative to alcoholism.

[Filed with Secretary of State June 11, 1976.]

WHEREAS, In subdivision (a) of Section 19901 of the Welfare and Institutions Code, the Legislature has declared that alcoholism is the most serious drug problem in California; and

WHEREAS, California's state-funded alcoholism programs have heretofore concentrated on providing treatment and rehabilitation services to individuals who suffer from alcoholism and to their families; and

WHEREAS, Effective treatment and rehabilitation services reduce the number of existing instances of alcoholism, but may not significantly prevent the increased incidence of alcoholism; and

WHEREAS, The state has a responsibility to continue to help individuals already afflicted with alcoholism, as well as their families, by providing effective treatment and rehabilitation services; and

WHEREAS, The state has not expended any significant amount of funds or initiated any major efforts to achieve the prevention of alcohol abuse or alcoholism, or the minimization of alcohol-related social problems; and

WHEREAS, The state has a continuing responsibility to help not only individuals afflicted with alcoholism and their families, but also to reduce the societal impact of alcohol abuse and alcoholism by preventing its incidence or minimizing alcohol-related social problems; and

WHEREAS, In spite of increased public funding for effective alcoholism services, the economic losses and personal tragedies associated with alcoholism and alcohol abuse such as violent crime, juvenile delinquency, lost productivity, drunk driving accidents and fatalities, divorce, and child abuse apparently have increased dramatically during the past decade particularly among women, youth, and ethnic minorities; and

WHEREAS, The rise in per capita consumption of alcoholic beverages in California of 40 percent over the last decade parallels the increase in the societal impact of alcoholism and alcohol abuse; and

WHEREAS, The consumption of alcoholic beverages in California is encouraged, promoted, sustained, and portrayed as a necessary, sophisticated, and acceptable part of our way of life; and

WHEREAS, It is apparent that in order to affect the increasing rate of per capita consumption of alcoholic beverages in California, there is a need to change the attitudes of most Californians, including those who do not abuse alcohol or suffer from alcoholism; and

WHEREAS, The Office of Alcoholism, in its "1976 Report to the Legislature: Current Status and Future Directions," sets forth several possible five-year societal objectives; and

WHEREAS, The Office of Alcoholism plans to concentrate its efforts and resources during a five-year period commencing in the 1976–77 fiscal year on a limited number of societal objectives; and

WHEREAS, The Legislature recognizes the difficulty of measuring the achievement of such objectives through use of such indicators as the per capita consumption of alcoholic beverages, the cirrhosis death rate, the number of arrests, lost worktime, and other indicators which may be affected by variable factors that remain difficult to isolate and measure; and

WHEREAS, The Legislature has held hearings, polled various groups, and tried to ascertain which societal objectives the people of this state believe are most important; now, therefore be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Office of Alcoholism be directed to concentrate its efforts and resources on the following societal objectives:

1) Short Term—Reduce the number of fatalities and serious accidents caused by or related to drunk driving.

2) Long Term—Develop strategies and suggest legislation, if required, to encourage a change in the attitudes of Californians regarding consumption of alcoholic beverages in order to affect the rising rate of such consumption in California and the parallel increase in societal impact caused by or related to alcohol abuse and alcoholism.

and determine and implement the most effective methods, both within its limited resources and within its administrative and fiscal control over other governmental or private agencies, to achieve these societal objectives; and be it further

Resolved, That the office shall include in its annual report to the Legislature each year required pursuant to subdivision (n) of Section 19903.5 of the Welfare and Institutions Code, commencing in 1977, a discussion of its plans to achieve these societal objectives, the methods chosen to achieve them, including any suggestions for legislation, the office's success or failure in achieving them, and the reasons therefor.

RESOLUTION CHAPTER 47

Assembly Concurrent Resolution No. 226—Relative to suspension of rules.

[Filed with Secretary of State June 14, 1976.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That subdivision (c) of Rule 29.5 of the Temporary Joint Rules be suspended with respect to the Budget Bill for the 1976–77 fiscal year; provided, however, that the committee on conference shall only consider differences between Assembly Bill 2680 as passed by the Assembly on May 28, 1976, and Senate Bill 1410 as passed by the Senate on June 10, 1976, and shall not approve any item of expenditure nor control which exceeds that contained in one of the two bills as so passed.

RESOLUTION CHAPTER 48

Senate Concurrent Resolution No. 101—Relative to the Joint Legislative Budget Committee.

[Filed with Secretary of State June 15, 1976.]

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 four hundred fifty thousand dollars ($2,450,000), 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 49

Senate Joint Resolution No. 44—Relative to Amtrak.

[Filed with Secretary of State June 21, 1976.]

WHEREAS, America's railroads are vital to the economy and the travel needs of the nation; and

WHEREAS, The continuing problems of fuel shortages and environmental pollution dictate that alternatives to the automobile must be developed and maintained; and

WHEREAS, Amtrak has provided California and the entire nation with a viable alternative to the automobile; and

WHEREAS, It is necessary for Amtrak to at least maintain its present level of service in order to continue its efforts to increase railway ridership; and

WHEREAS, California has provided for three million dollars ($3,000,000) for 1976–77 to 1978–79 fiscal years to be matched with federal funds for the expansion of Amtrak services; and

WHEREAS, The proposed Amtrak budget for fiscal year 1976–77 does not provide for expansion of Amtrak services, nor for the rise in the cost of present services due to inflation; and

WHEREAS, The current proposed budget may impede expansion of Amtrak services within California and may even result in a cutback of such services; 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 provide Amtrak with a fiscal year 1976–77 budget sufficient for the maintenance of present services, extension of intercity passenger rail services, and the upgrading of other commuter rail services; 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 50

Senate Joint Resolution No. 48—Relative to forest fire prevention.

[Filed with Secretary of State June 21, 1976.]

WHEREAS, Congressional appropriations for forest fire prevention and suppression under Section 2 of the Clarke-McNary Act have been a vital factor in the protection of forest and water resources in the United States for 50 years; and

WHEREAS, Such appropriations recognize the facts that the public uses and benefits from all forest lands and that the federal government should assist in their protection; and

WHEREAS, The level of protection afforded adjacent and intermingled state and federal lands depends directly upon the effectiveness of protection provided by the state; and

WHEREAS, This mutual interdependence and reinforcement capability is vital to the protection of forest resources in the western states, and the federal government should do all in its power to assure such capability; and

WHEREAS, Congressional appropriations are a significant part of each state's fire control budget and are essential to each state for the

proper and effective maintenance of its fire protection program at current levels; and

WHEREAS, The President's budget for the 1976–77 fiscal year proposes to reduce appropriations under the Clarke-McNary Act from $22.6 million to $11.7 million, and there are proposals to eliminate such appropriations entirely in the 1977–78 fiscal year; 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 all acts necessary to restore funding of forest fire prevention and suppression programs under the Clarke-McNary Act to their prior levels and to retain such programs and financial assistance in the future; 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 51

Senate Concurrent Resolution No. 94—Relative to a memorial to peace officers.

[Filed with Secretary of State June 21, 1976.]

WHEREAS, It has long been recognized that the law enforcement profession carries a high potential of danger; and

WHEREAS, This potential is manifested most clearly when a peace officer is killed in the line of duty while enforcing the law; and

WHEREAS, The security of the citizens depends upon the high sense of duty displayed by peace officers; and

WHEREAS, This devotion to duty has resulted in a number of peace officers losing their lives while enforcing the law and protecting the citizenry; and

WHEREAS, The Legislature, being the law-creating body and representing the citizens of this state, is in the best position to take cognizance of this devotion to law; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature shall cause to be erected a memorial to peace officers slain in the line of duty which conforms to the present design and landscape of the Capitol building and its grounds, and that this memorial be positioned in a prominent location near the entrance to the State Capitol so that all citizens will be able to acknowledge and recall the ultimate sacrifice of its guardians; and be it further

594 289345 335

Resolved, That the inscription on the monument recall another incident of devotion wherein 300 soldiers of Sparta held off an invading army of over one million Persians at the Pass of Thermopylae in 480 B.C. This inscription shall read from the epitaph of the Pass of Thermopylae as follows: "GO, STRANGER, AND TELL THE LACEDAEMONIANS THAT WE LIE HERE IN OBEDIENCE TO THEIR LAWS"; and be it further

Resolved, That the Legislature shall cause to be inscribed on this memorial the name, date of death, and department of all California peace officers who are slain in the line of duty, and that the list of names will commence with officers slain since January 1, 1970; and be it further

Resolved, That such monument be a perpetual memorial to all California peace officers.

RESOLUTION CHAPTER 52

Senate Concurrent Resolution No. 83—Relative to a Bicentennial marker.

[Filed with Secretary of State June 21, 1976.]

WHEREAS, The Members of the Legislature of the State of California are sincerely pleased by the kind offer of the American Revolution Bicentennial Commission of California to obtain at the expense of the commission and private persons a marker or tablet for placement in the Library-Courts Building or at such other state building at Sacramento as the commission may determine to honor the extensive participation of the State of California, acting through the commission, in the current Bicentennial program; and

WHEREAS, The Bicentennial recognition in California has, by statute, commemorated events of the War for Independence from July 3, 1775, when General George Washington, at the behest of Congress, assumed command at Cambridge of the Continental Army of 16,000 active militia, to the conclusion of hostilities in 1783, when terms of peace were negotiated with Great Britain; and

WHEREAS, The State of California has joined unstintingly in the advancement and observance of the Bicentennial of the creation of the United States of America and, since early 1968, has officially participated in the national program and other activities; and

WHEREAS, In the great nation and federal union which emerged from the War for Independence, the State of California may rank as preeminent; and

WHEREAS, It is fitting and proper that the effective role of the State of California in the Bicentennial commemoration should be honored by a tablet or marker placed within the interior or upon the exterior of a state government building in Sacramento; now,

therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California does hereby consent to the placement of a marker by the American Revolution Bicentennial Commission of California, as above indicated; and the Director of General Services is requested to furnish such assistance to the commission as may be required for the placement of a marker inside or outside a state government building in Sacramento; and be it further

Resolved, That the Secretary of the Senate is directed to transmit copies of this resolution to the Director of General Services, the American Revolution Bicentennial Commission of California, and the American Revolution Bicentennial Administration.

RESOLUTION CHAPTER 53

Senate Constitutional Amendment No. 40—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 XV thereof, relating to usury.

[Filed with Secretary of State June 22, 1976.]

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 1 of Article XV thereof to read:

SECTION 1. 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 per cent 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 1 (commencing with Section 54001) of Division 20 of the Food and 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 54

Senate Joint Resolution No. 32—Relative to mining in the Los Padres National Forest.

[Filed with Secretary of State June 24, 1976.]

WHEREAS, A phosphate strip or open-pit mine operation under federal lease is proposed to be located in the Los Padres National Forest in Ventura County about 25 miles north of the City of Ventura, near the City of Ojai, which would cause serious and irreparable harm to the environment; and

WHEREAS, The proposed mining operation would be located adjacent to State Highway Route 33, a proposed state scenic highway which would provide the only access to the mine site, but such highway is a two-lane mountain road not designed for intensive use; and

WHEREAS, It is anticipated that the proposed mining operation would be conducted for at least 50 years, would use a million gallons of water per day, and would emit more sulfur dioxide into the air than all other existing sources in Ventura County combined; and

WHEREAS, The environmental impact statement submitted by United States Gypsum was prepared under the direction of Dr. Beatrice Willard, who was subsequently appointed by President Nixon to the National Council on Environmental Quality, the very council that must ultimately rule on the sufficiency of the environmental impact statement in question; and

WHEREAS, To allow such a strip or open-pit mining operation to be conducted on federal lands in this area would be inconsistent with the National Environmental Policy Act of 1969; 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 (1) that the environmental impact statement now under consideration for such project be considered a draft only, and not a final environmental impact statement; (2) that new public hearings be held by the Department of the Interior on a revised environmental impact statement, with testimony requested from the public, elected and appointed legislative representatives, and concerned federal, state, and local agencies; (3) that such public hearing be conducted in the local area to allow all interested parties the opportunity to testify; and (4) that the President and the Congress of the United States take all steps necessary to prevent strip mining or open-pit mining in that

632 289435 353

area of the Los Padres National Forest situated in Ventura County approximately 25 miles north of the City of Ventura, near the City of Ojai; 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, the Secretary of the Interior, 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 Constitutional Amendment No. 75—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending subdivision (b) of Section 9 of Article II, and by amending subdivision (c) of Section 8 and Section 10 of Article IV, relating to the enactment of statutes.

[Filed with Secretary of State June 24, 1976.]

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 as follows:

First—That subdivision (c) of Section 8 of Article IV is amended to read:

(c) (1) Except as provided in paragraphs (2) and (3) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

(3) Statutes enacted at a regular session pursuant to the provisions of paragraph (1) of subdivision (a) of Section 10 of Article IV shall go into effect on January 1 next following the enactment of the statute unless, prior to such time, the proponents of a referendum measure affecting such statute request a title for the measure from the Attorney General, in which event the statute shall go into effect 90 days after the enactment of the statute unless, the proponents of a measure qualify such measure for submission to the electors pursuant to subdivision (b) of Section 9 of Article II.

Second—That Section 10 of Article IV is amended to read:

375 289465 359

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two thirds of the membership concurring, it becomes a statute. A bill presented to the Governor that is not returned within 12 days becomes a statute; provided, that:

(1) Any bill passed by the Legislature during the first calendar year of the biennium of a legislative session and presented to the Governor after the Legislature has adjourned for the Interim Study Recess to reconvene in the second calendar year of the biennium of a legislative session becomes a statute if not returned within 30 days after the bill is presented to the Governor.

(2) Any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned by the Governor on or before September 30 of that year becomes a statute.

(b) The Legislature may not present to the Governor any bill after November 15 of the second calendar year of the biennium of the legislative session.

(c) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days by depositing it and the veto message in the office of the Secretary of State.

(d) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by the thirtieth day of January of the second calendar year of the biennuim may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

(f) If the 12th day of a period provided by this section for consideration of a bill by the Governor is a Saturday, Sunday, or holiday, the period shall be extended to the next working day.

Third—That subdivision (b) of Section 9 of Article II is amended to read:

(b) A referendum measure may be proposed by presenting to the Secretary of State, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or part of it be submitted to the electors.

The petition shall be presented to the Secretary of State on or before January 1 next following the enactment date of the statute, in the case of a statute enacted pursuant to paragraph (1) of subdivision (a) of Section 10 of Article IV unless, prior to such time, the proponents of a referendum measure affecting such statute request a title for the measure from the Attorney General, in which event the petition shall be presented to the Secretary of State within 90 days after the enactment date of the statute. In the case of any other statute, it shall be presented to the Secretary of State within 90 days after the enactment date of the statute.

RESOLUTION CHAPTER 56

Assembly Constitutional Amendment No. 96—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Sections 8 and 18 of Article VI thereof, relating to the courts.

[Filed with Secretary of State June 24, 1976.]

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 as follows:

First—That Section 8 of Article VI thereof be amended to read:

SEC. 8. The Commission on Judicial Performance consists of 2 judges of courts of appeal, 2 judges of superior courts, and one judge of a municipal court, each appointed by the Supreme Court; 2 members of the State Bar who have practiced law in this State for 10 years, appointed by its governing body; and 2 citizens who are not judges, retired judges, or members of the State Bar, appointed by the Governor and approved by the Senate, a majority of the membership concurring. All terms are 4 years.

Commission membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

Second—That Section 18 of Article VI thereof be amended to read:

SEC. 18. (a) A judge is disqualified from acting as a judge, without loss of salary, while there is pending (1) an indictment or an information charging the judge in the United States with a crime

396 289505 367

punishable as a felony under California or federal law, or (2) a recommendation to the Supreme Court by the Commission on Judicial Performance for removal or retirement of the judge.

(b) On recommendation of the Commission on Judicial Performance or on its own motion, the Supreme Court may suspend a judge from office without salary when in the United States the judge pleads guilty or no contest or is found guilty of a crime punishable as a felony under California or federal law or of any other crime that involves moral turpitude under that law. If the conviction is reversed suspension terminates, and the judge shall be paid the salary for the judicial office held by the judge for the period of suspension. If the judge is suspended and the conviction becomes final the Supreme Court shall remove the judge from office.

(c) On recommendation of the Commission on Judicial Performance the Supreme Court may (1) retire a judge for disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent, and (2) censure or remove a judge for action occurring not more than 6 years prior to the commencement of the judge's current term that constitutes wilful misconduct in office, persistent failure or inability to perform the judge's duties, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The commission may privately admonish a judge found to have engaged in an improper action or a dereliction of duty, subject to review in the Supreme Court in the manner provided for review of causes decided by a court of appeal.

(d) A judge retired by the Supreme Court shall be considered to have retired voluntarily. A judge removed by the Supreme Court is ineligible for judicial office and pending further order of the court is suspended from practicing law in this State.

(e) A recommendation of the Commission on Judicial Performance for the censure, removal or retirement of a judge of the Supreme Court shall be determined by a tribunal of 7 court of appeal judges selected by lot.

(f) The Judicial Council shall make rules implementing this section and providing for confidentiality of proceedings.

RESOLUTION CHAPTER 57

Assembly Constitutional Amendment No. 77—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Sections 3, 3.1, 3.3, and 7 of, and adding Section 3.2 to, Article IX thereof, relating to county boards of education and county superintendents of schools.

[Filed with Secretary of State June 24, 1976.]

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 as follows:

First—That Section 3 of Article IX thereof is amended to read:

SEC. 3. A Superintendent of Schools for each county may be elected by the qualified electors thereof at each gubernatorial election or may be appointed by the county board of education, and the manner of the selection shall be determined by a majority vote of the electors of the county voting on the question; provided, that two or more counties may, by an election conducted pursuant to Section 3.2 of this article, unite for the purpose of electing or appointing one joint superintendent for the counties so uniting.

Second—That Section 3.1 of Article IX thereof is amended to read:

SEC. 3.1. (a) Notwithstanding any provision of this Constitution to the contrary, the Legislature shall prescribe the qualifications required of county superintendents of schools, and for these purposes shall classify the several counties in the state.

(b) Notwithstanding any provision of this Constitution to the contrary, the county board of education or joint county board of education, as the case may be, shall fix the salary of the county superintendent of schools or the joint county superintendent of schools, respectively.

Third—That Section 3.2 is added to Article IX thereof, to read:

SEC. 3.2. Notwithstanding any provision of this Constitution to the contrary, any two or more chartered counties, or nonchartered counties, or any combination thereof, may, by a majority vote of the electors of each such county voting on the proposition at an election called for that purpose in each such county, establish one joint board of education and one joint county superintendent of schools for the counties so uniting. A joint county board of education and a joint county superintendent of schools shall be governed by the general statutes and shall not be governed by the provisions of any county charter.

Fourth—That Section 3.3 of Article IX thereof is amended to read:

SEC. 3.3. Except as provided in Section 3.2 of this article, it shall be competent to provide in any charter framed for a county under any provision of this Constitution, or by the amendment of any such charter, for the election of the members of the county board of education of such county and for their qualifications and terms of office.

Fifth—That Section 7 of Article IX thereof is amended to read:

SEC. 7. The Legislature shall provide for the appointment or election of the State Board of Education and a board of education in each county or for the election of a joint county board of education for two or more counties.

RESOLUTION CHAPTER 58

Assembly Constitutional Amendment No. 94—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 5 of Article V thereof, relating to state officers.

[Filed with Secretary of State June 24, 1976.]

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 5 of Article V thereof, to read:

SEC. 5. (a) Unless the law otherwise provides, the Governor may fill a vacancy in office by appointment until a successor qualifies.

(b) Whenever there is a vacancy in the office of the Superintendent of Public Instruction, the Lieutenant Governor, Secretary of State, Controller, Treasurer, or Attorney General, or on the State Board of Equalization, the Governor shall nominate a person to fill the vacancy who shall take office upon confirmation by a majority of the membership of the Senate and a majority of the membership of the Assembly and who shall hold office for the balance of the unexpired term. In the event the nominee is neither confirmed nor refused confirmation by both the Senate and the Assembly within 90 days of the submission of the nomination, the nominee shall take office as if he or she had been confirmed by a majority of the Senate and Assembly; provided, that if such 90-day period ends during a recess of the Legislature, the period shall be extended until the sixth day following the day on which the Legislature reconvenes.

RESOLUTION CHAPTER 59

Senate Constitutional Amendment No. 46—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 14 to Article XI thereof, relating to local government.

[Filed with Secretary of State June 24, 1976.]

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

746 289580 382

the Constitution of the state be amended by adding Section 14 to Article XI thereof, to read:

SEC. 14. A local government formed after the effective date of this section, the boundaries of which include all or part of two or more counties, shall not levy a property tax unless such tax has been approved by a majority vote of the qualified voters of that local government voting on the issue of the tax.

RESOLUTION CHAPTER 60

Senate Constitutional Amendment No. 53—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 12 of Article XIII thereof, relating to property taxation.

[Filed with Secretary of State June 24, 1976.]

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 12 of Article XIII thereof to read:

SEC. 12. (a) Except as provided in subdivision (b), taxes on personal property, possessory interests in land, and taxable improvements located on land exempt from taxation which are not a lien upon land sufficient in value to secure their payment shall be levied at the rates for the preceding tax year upon property of the same kind where the taxes were a lien upon land sufficient in value to secure their payment.

(b) In any year in which the assessment ratio is changed, the Legislature shall adjust the rate described in subdivision (a) to maintain equality between property on the secured and unsecured rolls.

RESOLUTION CHAPTER 61

Senate Constitutional Amendment No. 45—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 12 to Article XVI thereof, relating to energy utilization and conservation.

[Filed with Secretary of State June 24, 1976.]

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 adding Section 12 to Article XVI thereof, to read:

SEC. 12. The Legislature may provide for a program of state loans, which may bear interest at less than prevailing market rates, for financing installations of energy insulation or solar heating or cooling systems in residential structures.

RESOLUTION CHAPTER 62

Assembly Joint Resolution No. 77—Relative to Iva Toguri d'Aquino.

[Filed with Secretary of State June 25, 1976.]

WHEREAS, Iva Toguri d'Aquino, a California born, reared, and educated woman, was stranded in Japan at the onset of World War II while making an emergency humanitarian visit to a sick aunt; and

WHEREAS, It was brought out in her 1949 trial in San Francisco that, because of her steadfast refusal to renounce her American citizenship in wartime Japan, she was harassed unmercifully by the Japanese police, and denied food rations, causing her severe physical sufferings; and

WHEREAS, Witnesses and affidavits presented at her trial pointed out that she was outspokenly pro-American throughout the war years in Japan, continuously maintaining, despite much personal danger, that the United States would win the war; and

WHEREAS, Many testified that she was threatened and ordered to broadcast over Radio Tokyo by the Japanese military government; and

WHEREAS, Allied prisoners of war Major Charles Cousens of Australia and United States Army Captain Wallace Ince, both forced to work at Radio Tokyo, testified that they assured her that she could help the American war efforts by conducting a popular American music program and by watering down anti-American propaganda; and

WHEREAS, She spent her own meager funds to purchase food, medicine, and tobacco, and risked her own life and safety to aid the sick and the weak at the Bunka prisoner-of-war camp in Tokyo; and

WHEREAS, The term "Tokyo Rose" was coined by American soldiers and applied to any and all female broadcasters heard on Japanese radio stations; and

WHEREAS, Iva Toguri d'Aquino was one of 14 English-speaking

women announcers employed by Radio Tokyo, but only she was arrested, investigated, tried, and convicted; and

WHEREAS, Major Cousens and Captain Ince both testified in the 1949 trial that they wrote all the scripts for Iva Toguri d'Aquino's "Zero Hour" programs; and

WHEREAS, United States military propaganda monitors were unable to locate any propaganda or demoralizing statements in her program; and

WHEREAS, United States Army Alaskan Defense Command, in the spring of 1944, issued a memorandum instructing staff officers to urge their men to listen to her broadcasts because they were free of propaganda; and

WHEREAS, After a year of extensive investigation on the scene by the legal staff of General of the Army Douglas MacArthur and the Federal Bureau of Investigation, the United States Department of Justice concluded that there was no cause and released her in October 1946; and

WHEREAS, The public outcry against her returning to the United States was ignited by the hostile radio and press in a period when public temper was still inflamed against Japan, and Japanese-Americans often became targets; and

WHEREAS, She was convicted solely on the testimonies by two prosecution witnesses who had renounced their American citizenships; and

WHEREAS, She spent eight and one-half years of her life in prison, paid $10,000 in fines, and suffered untold humiliations and harassments for over 30 years; and

WHEREAS, Although she has lost her rights as an American, she has remained a proud and loyal American in spite of her ordeal; and

WHEREAS, President Ford in his recent proclamation terminating Executive Order 9066, which sent more than 112,000 Japanese-Americans into detention camps during World War II, stated that there must be "an honest reckoning of our national mistakes as well as our national achievements"; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the members believe that Iva Toguri d'Aquino may have been unjustly accused, tried, and convicted for treason as a mythical "Tokyo Rose"; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States to consider favorably her petition for pardon; and be it further

Resolved, That Iva Toguri d'Aquino be given a full and unconditional presidential pardon to redeem her name and to restore her cherished American citizenship; 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 63

Assembly Concurrent Resolution No. 133—Relative to impact of legislation on jobs.

[Filed with Secretary of State June 28, 1976.]

WHEREAS, There is presently a high rate of unemployment in California; and

WHEREAS, It is desirable that legislation passed by the State Legislature have the effect of increasing, not reducing the number of available jobs in California; and

WHEREAS, No information is presently available on the number of jobs created or lost as a result of proposed legislation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislative Analyst when directed by the Rules Committee of either house prepare a report on the bill's probable impact on jobs in the state; and be it further

Resolved, That such report contain the number of direct jobs estimated to be created or lost as a result of such legislation; and be it further

Resolved, That any author or committee may request a job impact report on proposed legislation, but the Rules Committee of the house where the request originated shall determine which bills should be assigned to the Legislative Analyst for a job impact report; and be it further

Resolved, That only those bills having significant impact should be assigned; and be it further

Resolved, That during the determination by the Rules Committee, the appropriate policy committee shall be consulted regarding the need for a report, and the Legislative Analyst shall provide input with respect to the possible costs and time necessary to complete the report and when necessary, the Rules Committee may provide funds to offset added costs incurred by the Legislative Analyst; and be it further

Resolved, That with respect to those bills which are assigned to the Legislative Analyst for a job impact report, the Legislative Counsel's digest shall contain the statement "JOBS IMPACT: Assigned to Legislative Analyst for study."

RESOLUTION CHAPTER 64

Assembly Concurrent Resolution No. 141—Relative to State Personnel Board surveys.

[Filed with Secretary of State June 28, 1976]

WHEREAS, The Legislature has expressed compensation policy for state employees in Section 18850 of the Government Code, which states, in part, that "In establishing or changing such [salary] ranges consideration shall be given to the prevailing rates for comparable service in other public employment and private business"; and

WHEREAS, The current methodology employed by the State Personnel Board in their semiannual surveys of salaries and wages paid by public and private employers is limited to the major metropolitan areas of California; and

WHEREAS, Approximately 20 percent of the work force in the surveyed areas is employed in organizations with less than 50 employees; and

WHEREAS, The State Personnel Board's surveys are limited for the most part to employers of 50 or more employees, thus excluding many smaller employers which, if included, would appropriately reflect salaries actually being paid; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Personnel Board is hereby requested to consider surveying additional counties outside the major metropolitan areas and to consider the inclusion of employers of less than 50 employees in its salary surveys; and be it further

Resolved, That the Clerk of the Assembly transmit a copy of this resolution to the Governor of California, to the State Personnel Board, and to the Legislative Analyst.

RESOLUTION CHAPTER 65

Assembly Concurrent Resolution No. 182—Relative to state financing.

[Filed with Secretary of State June 28, 1976.]

WHEREAS, At different times over the years, various agencies, departments, and divisions of the state have arranged financing for various types of property for use by state agencies, departments, and divisions; and

WHEREAS, At the time each such financing was deemed both expeditious and advantageous to both parties to such financing; and

WHEREAS, Due to the passage of time, it is possible that restructuring of such financing may redound to the financial advantage of the parties to the transactions; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Assembly Office of Research conduct a study of such financing and the potential restructuring thereof; and be it further

Resolved, That such office report its findings and recommendations to the Legislature on the date specified by the

Rules Committee; and be it further

Resolved, That a copy of this resolution be transmitted to the Director of the Assembly Office of Research.

RESOLUTION CHAPTER 66

Assembly Concurrent Resolution No. 190—Relative to tabulation for legislative apportionment.

[Filed with Secretary of State June 28, 1976.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Rules Committee is hereby directed to prepare and submit to the United States Secretary of Commerce a plan for the tabulation of population for purposes of legislative apportionment pursuant to Section 141 of Title 13 of the United States Code (as amended by H.R. 1753, November 10, 1975); and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to the United States Secretary of Commerce.

RESOLUTION CHAPTER 67

Assembly Concurrent Resolution No. 225—Relative to memorializing the Honorable Alfred C. Siegler.

[Filed with Secretary of State June 28, 1976]

WHEREAS, The Honorable Alfred C. Siegler was elected to the California State Assembly from the Eighth District in November 1974, after an illustrious career in Napa and Solano Counties which included 35 years as an educator and school administrator and two years service as a member of the Solano County Board of Supervisors; and

WHEREAS, Born in San Jose and a graduate of San Jose State University, Assemblyman Siegler received his master of arts degree in education from the University of California at Berkeley; and he served as chairman of over half a dozen accreditation teams, and was a past president of the North Bay and Solano County Administrators Association; and

WHEREAS, Throughout his term as a Member of the Legislature, he displayed an exemplary devotion to his duties as Vice Chairman of the Labor Relations Committee and as a member of the Education and the Housing and Community Development Committees, the Select Committee on Implementation of Career Education, the Labor Relations: Permanent Subcommittee on Industrial Safety, and

the Educational Innovation and Planning Commission; and

WHEREAS, Assemblyman Siegler was actively involved in a number of community organizations, contributing extensively of his time and energy to the Vallejo Sanitation and Flood Control District, the Catholic Social Service, the Kiwanis Club, the Camp Fire Girls, the American Red Cross, the Region E Coordinating Committee of the Office of Criminal Justice Planning, the Napa Boys Club, and the Boy Scouts of America; and

WHEREAS, He was also a member of the Sons and Daughters of Italy, the Navy League, the Native Sons of the Golden West, the Knights of Columbus, the Vallejo Symphony Association, the National Congress of the Parent Teacher Association, and the Yolo-Solano County Air Pollution Board; and he was the recipient of the North Bay Commuity Service Award and Civic Unity's "Man of the Year" award; and

WHEREAS, Assemblyman Siegler, who was married to the late Loyola Siegler, is survived by three children, Mrs. Karen Billis, Dr. Richard Siegler, and Mr. Jim Siegler; six grandchildren; his mother Mrs. Marie Siegler; and his brother Mr. Raymond Siegler; 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 loss of their friend and colleague, the Honorable Alfred C. Siegler, and, by this resolution, memorialize his illustrious record of personal and professional achievement through his unselfish service to his fellow citizens throughout Napa and Solano Counties and the State of California; and, be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Mrs. Karen Billis, Dr. Richard Siegler, and Mr. Jim Siegler, Mrs. Marie Siegler, and Mr. Raymond Siegler.

RESOLUTION CHAPTER 68

Assembly Concurrent Resolution No. 210—Relative to the Joint Legislative Audit Committee.

[Filed with Secretary of State June 28, 1976.]

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 thousand dollars ($1,700,000), 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,

1210 28 10155 425

to be paid from such fund and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasury.

RESOLUTION CHAPTER 69

Senate Joint Resolution No. 43—Relative to supporting an international exposition to be held at the Ontario Motor Speedway, Ontario, California.

[Filed with Secretary of State June 29, 1976.]

WHEREAS, The presentation of an international exposition in 1981 in the State of California would bring many tourists to the state, create new jobs, and provide the citizens of California with the unique opportunity to attend an international exposition within the State of California; and

WHEREAS, An international exposition would benefit many citizens in many sections of the state; and

WHEREAS, The Counties of Los Angeles and San Bernardino and the Cities of Los Angeles and Ontario have indicated their support for presenting an international exposition at the Ontario Motor Speedway in Ontario, California; and

WHEREAS, The State of California and all of the counties and cities in proximity to the Ontario Motor Speedway should join and work together to bring an international exposition to California; and

WHEREAS, Many steps have been taken by the EXPO 81 nonprofit board to bring an international exposition to the City of Ontario, California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California endorses the proposal and supports all efforts to hold an international exposition in 1981 at the Ontario Motor Speedway, Ontario, California, and respectfully memorializes the President and the Congress of the United States to take any necessary action to implement the holding of such an exposition; 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.

643 28 10 180 430

RESOLUTION CHAPTER 70

Senate Concurrent Resolution No. 98—Relative to the Joint Rules.

[Filed with Secretary of State June 29, 1976]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Rule 10.5 of the Temporary Joint Rules of the Senate and Assembly for the 1975–76 Regular Session be amended to read:

Rereference to Fiscal and Rules 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.

A bill which assigns a study to the Joint Legislative Budget Committee or to the Legislative Analyst shall be rereferred to the respective Rules Committee. Before the committee shall act upon such bill, it shall obtain from the Joint Legislative Budget Committee an estimate of the amount required to be expended to make the study.

RESOLUTION CHAPTER 71

Assembly Concurrent Resolution No. 106—Relative to the Christopher Columbus Highway.

[Filed with Secretary of State June 29, 1976.]

WHEREAS, Interstate 10 in California, Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, and Florida is a transcontinental route of almost 3,000 miles traveled by millions of Americans throughout the year; and

WHEREAS, Interstate 10 is presently not named after any historical figure; and

WHEREAS, This nation in its bicentennial year of 1976 should give recognition in a "concrete" way to those great persons who have contributed to the development of this country; and

WHEREAS, To millions of Americans, the name of Christopher Columbus represents a man whose name is enshrined forever in the hearts and minds of people as a navigator of undaunted skill and perseverance whose discovery of America opened the Western Hemisphere to a new dawn of civilization; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members direct the Department of Transportation to designate Interstate 10 in California as "The Christopher Columbus Transcontinental Highway" in memory of a distinguished pioneer, revered by millions for his exploits; to place suitable markers, where appropriate, at strategic intervals along the California route to call attention to the new name; and to advise the Federal Highway Administration of California's action; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the legislatures of the other states along the route with a request that they take similar action; and be it further

Resolved, That the Chief Clerk of the Assembly also transmit copies of this resolution to the California Department of Transportation and to the Federal Highway Administration.

RESOLUTION CHAPTER 72

Assembly Concurrent Resolution No. 154—Relative to the Arts Council.

[Filed with Secretary of State June 29, 1976.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is hereby requested to require the executive or principal office of the Arts Council to remain in the County of Sacramento and to permit the council to establish one or more secondary offices in other locations within the state as may be needed to properly carry out the functions of the council; and be it further

Resolved, That a copy of this resolution be transmitted to the Governor.

RESOLUTION CHAPTER 73

Assembly Concurrent Resolution No. 156—Relative to availability of grant money for youth delinquency prevention services.

[Filed with Secretary of State June 29, 1976.]

WHEREAS, Grant money for youth delinquency prevention services is available from various sources, including the state and federal government; and

WHEREAS, Presently there is no inventory of sources of such grants; and

WHEREAS, The lack of such an inventory has resulted in local youth delinquency prevention service agencies having great difficulty in finding such sources of grant money; and

WHEREAS, An inventory of the grant money available to youth delinquency prevention services would be most helpful to the Legislature, as this information would allow the Legislature to evaluate the effectiveness and ensure the continuation of youth delinquency prevention services at the local level; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Secretary of the Health and Welfare Agency is requested to have prepared, within one year after the date this resolution is filed with the Secretary of State, an inventory of the grant money available to youth delinquency prevention services at the local level, and that the inventory indicate the sources of such grant money, the total amount of grant money available from each of such sources, and the amount and source of the grant money being used by each youth delinquency prevention service program; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Secretary of the Health and Welfare Agency.

RESOLUTION CHAPTER 74

Assembly Concurrent Resolution No. 211—Relative to the Joint Rules.

[Filed with Secretary of State June 29, 1976.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Rule 37.1 is added to the Temporary Joint Rules of the Senate and Assembly for the 1975–76 Regular Session, to read:

Citizen Cost Impact Report

37.1. Any Member or committee of the Legislature may recommend that the Legislative Analyst prepare a citizen cost impact analysis on proposed legislation. However, such a recommendation shall first be reviewed by the Rules Committee of the house where the recommendation originated, and this committee shall make the final determination as to which bills shall be assigned for preparation of an impact analysis.

In selecting specific bills for assignment to the Legislative Analyst for preparation of citizen cost impact analyses, the Rules Committee shall request the Legislative Analyst to present an estimate of his time and prospective costs for preparing the analyses. Only those bills which have a potential significant cost impact shall be assigned. Where necessary, the Rules Committee shall provide funds to offset added costs incurred by the Legislative Analyst.

The citizen cost impact analyses shall include those economic effects which the Legislative Analyst deems significant and which he believes will result directly from the proposed legislation. Insofar as feasible, the Legislative Analyst shall consider, but not be limited to consideration of, the following:

(a) The economic effect on the public generally.

(b) Any specific economic effects on persons or businesses in the case of legislation which is regulatory.

The Legislative Analyst shall submit the citizen cost impact analyses when completed to the committee or committees and at the time or times designated by the Rules Committee.

The Legislative Analyst shall submit from time to time, but at least once a year, a report to the Legislature on the trends and directions of the state's economy, and shall list the alternatives and make recommendations as to legislative actions which, in his judgment, will insure a sound and stable state economy.

RESOLUTION CHAPTER 75

Assembly Joint Resolution No. 39—Relative to whales.

[Filed with Secretary of State June 29, 1976.]

WHEREAS, The State of California is a coastal state whose residents are dependent upon and concerned about the inhabitants of the oceans; and

WHEREAS, Whales, creatures of grand design and grander dimensions, are gentle ocean inhabitants whose numbers have dwindled due to the carnage by man; and

WHEREAS, Whales have been dramatically overexploited by commercial whalers to the point where many species are threatened with extinction; and

WHEREAS, These massive mammals, possibly second in intelligence only to man, are doomed because in the words of the famed French oceanographer, Jacques Cousteau, ". . . we are coldly, efficiently and economically killing them off"; and

WHEREAS, The time has come to halt the senseless and economically questionable slaughter of this splendid mammal whose passing would represent a stain on the honor of all mankind; and

WHEREAS, The California gray whale, which has been protected by international agreement since 1946 and which annually migrates along the coastal waters of the State of California, may again become a target of the whaling industry in defiance of international and scientific opinion; and

WHEREAS, The Legislature of the State of California recognizes the plight of all whales and in particular the danger to California gray whales, which were recently designated by the Legislature of the State of California as the California State Marine Mammal; and

WHEREAS, Legislation has been introduced in the Congress of the United States which would broaden the embargo powers of the President of the United States to enable him to embargo all products of countries engaged in commercial whaling; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of California respectfully memorializes the President and the Congress of the United States to:

1. Actively support the passage of a 10-year moratorium on the taking of all whales which would be proposed to the International Whaling Commission by the United States.

2. Actively oppose any proposals made to the International Whaling Commission to assign a kill quota to the gray whale.

3. Support congressional resolutions which broaden the President's embargo powers to cover all fish and fish products produced by countries engaging in commercial whaling; 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, to each Senator and Representative from California in the Congress of the United States, and to the International Whaling Commission.

RESOLUTION CHAPTER 76

Senate Concurrent Resolution No. 92—Relative to community mental health services.

[Filed with Secretary of State June 30, 1976.]

WHEREAS, In 1968 the Legislature enacted the Short-Doyle Act with the intent 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; and

WHEREAS, At the time the act was implemented there already existed and still exists a vast resource of professionals in the field of clinical social work and clinical psychology employed in family service agencies, child guidance clinics, and in private practice providing nonmedical services to individuals, couples, and families with emotional and relationship problems; and

WHEREAS, One of the requirements of that act is that each county utilize available private mental health resources and facilities in the county prior to developing new county-operated resources or facilities when such private mental health resources or facilities are of at least equal quality and cost as compared with county-operated resources or facilities; and

WHEREAS, In terms of expertise, cost effectiveness, and economy, optimum use should be made of nonmedical personnel who can provide effective counseling and casework services at a lower cost, and private voluntary sectarian and nonsectarian agencies whose primary funding is voluntary dollars; and

WHEREAS, A question has arisen as to whether the counties are complying with the above requirements; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That each county receiving Short-Doyle funding and the Director of Health comply with Section 5600.1 of the Welfare and Institutions Code; and be it further

Resolved, That the Director of Health insure that the annual county Short-Doyle plans required under Section 5650 of the Welfare and Institutions Code submitted to him for review and approval are in compliance with Section 5600.1 of the Welfare and Institutions Code; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to each county in this state which receives Short-Doyle funding.

RESOLUTION CHAPTER 77

Senate Joint Resolution No. 41—Relative to the simplification of eligibility for welfare.

[Filed with Secretary of State June 30, 1976.]

WHEREAS, State administration of the Aid to Families with Dependent Children Program and the Medi-Cal Act is required to conform to federal standards administered by the Department of

Health, Education and Welfare, while state administration of the Food Stamp Program is required to conform to federal standards administered by the Department of Agriculture; and

WHEREAS, Each of such programs has separate eligibility requirements, different methods of computing net income, and each requires a different set of forms to determine eligibility and the amount of assistance, that are complex, confusing and, in some cases, contradictory; and

WHEREAS, Generally applicants may be eligible for two or more programs or may transfer from one program to another; in either situation, eligibility for the same applicant must be determined separately using different regulations and different forms for each program; 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, the Department of Health, Education and Welfare, and the Department of Agriculture to make such changes in the law and regulations as are necessary to simplify the eligibility procedure for the programs mentioned in this resolution so that eligibility for all such programs can be measured by the same eligibility criteria and so that only one eligiblity form need be used; 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 Department of Health, Education and Welfare, the Department of Agriculture, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 78

Assembly Concurrent Resolution No. 85—Relative to vandalism.

[Filed with Secretary of State July 1, 1976.]

WHEREAS, The malicious destruction of public and private property deprives the general public of funds which would otherwise be expended for the improvement of schools, libraries, parks, transit systems and other public and private services; and

WHEREAS, Concern over incidents of vandalism has been expressed by citizens and public officials throughout the state; and

WHEREAS, The Legislature finds that vandalism can be substantially reduced by a thorough determination of the causes of such vandalism and by the development of programs designed to alleviate these causes; and

WHEREAS, The Department of the Youth Authority has statutory responsibility to conduct studies to identify problems relating to the

reduction of crime and delinquency and to develop, establish, and operate comprehensive public and private community-based programs for crime and delinquency prevention; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, out of funds appropriated for such services from existing budget resources or grants from the Law Enforcement Assistance Administration or the Office of Criminal Justice Planning, the Department of the Youth Authority is requested to do the following pursuant to the authority granted under Article 5.5 (commencing with Section 1790) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code:

(a) Conduct a study of areas which have experienced high rates of vandalism in order to determine the causes of vandalism in these areas; and

(b) Make a progress report to the Legislature not later than October 1, 1977, on the results of the study and recommendations on a pilot program to reduce the incidence of vandalism in California; and be it further

Resolved, That a copy of this resolution be transmitted to the Director of the Youth Authority.

RESOLUTION CHAPTER 79

Assembly Concurrent Resolution No. 142—Relative to speed limits on Route 1.

[Filed with Secretary of State July 2, 1976.]

WHEREAS, Due to the proximity of dwellings to the roadway and the existence of numerous dangerous intersections, portions of Route 1 in the vicinity of Malibu are especially hazardous; 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 post, on that segment of Route 1 in the County of Los Angeles between Chautauqua Boulevard and Malibu Canyon Road that is presently posted with a speed limit, applicable to all vehicles, of 45 miles per hour, an additional speed limit of 40 miles per hour that shall be applicable only to motortrucks or truck tractors having three or more axles or any motortruck or truck tractor drawing any other vehicle; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

1142 28 10430 480

RESOLUTION CHAPTER 80

Assembly Joint Resolution No. 59—Relative to the Bracero Program.

[Filed with Secretary of State August 11, 1976.]

WHEREAS, The American people and the people of California are facing an era of rising inflation, unemployment and underemployment; and

WHEREAS, American working men and women are struggling to earn an annual income sufficient for a decent and dignified living; and

WHEREAS, The hardships generated by the present economic crisis are particularly felt by low-income Americans, minority workers and domestic employees in industries offering marginal and seasonal employment; and

WHEREAS, Many Americans have been forced out of work through layoffs and cutbacks in production; and

WHEREAS, The American people need more and not fewer jobs; and

WHEREAS, Agreements between the United States and Mexican governments established the Bracero Program and that program continued from 1952 to its repeal by the U.S. Congress in 1964; and

WHEREAS, The Bracero Program fostered massive dislocation of American workers in California's agricultural industry; and

WHEREAS, Large numbers of domestic farm workers were denied jobs provided instead to imported foreign laborers despite provisions to the contrary in the Bracero Law; and

WHEREAS, Any reimplementation of the Bracero Program will deny United States citizens and legal resident aliens of jobs they want and need and are entitled to have; and

WHEREAS, The first impact of a reinstituted Bracero Program will be felt by American minority employees whose jobs will be taken from them and whose wages will be undercut by cheap, imported foreign labor; and

WHEREAS, Historians credit, in part, the rise of farm worker organizing during the decades of the sixties and seventies to the termination of the Bracero Program by the U.S. Congress in 1964; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature declare its vigorous opposition to any proposal advanced by the government of the United States or considered by the United States Congress that reimposes a Bracero Program on the American people or the people of California; and be it further

Resolved, That the California Legislature, on behalf of the people of this state, memorialize the government of the United States and the Members of the U.S. Congress to oppose any proposal that will

permit the contractual importation of foreign laborers and the subsequent displacement or dislocation of American citizens and legal resident aliens from jobs they now hold or may seek to hold; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, the Attorney General, Secretary of State, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 81

Assembly Concurrent Resolution No. 143—Relative to the pooling plan for fluid milk.

[Filed with Secretary of State August 11, 1976.]

WHEREAS, Recently the Director of Food and Agriculture declared in effect an amended pooling plan for fluid milk; and

WHEREAS, There is no indication in such an amended plan as to the changes made, in order to provide the public with adequate notice as to any added or deleted pooling plan provisions; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members hereby request the Director of Food and Agriculture to adopt a procedure showing the changes made in any amended pooling plan for fluid milk by requiring that the amended plan approved by the director be accompanied by an attachment showing the new matter by underline and any omitted matter by "strikeout" type; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Food and Agriculture.

RESOLUTION CHAPTER 82

Assembly Joint Resolution No. 63—Relative to military honors at funerals of veterans of the armed services.

[Filed with Secretary of State August 11, 1976.]

WHEREAS, Veterans of the armed services deserve recognition from the government and its citizens for having served their country in a necessary and vital capacity; and

WHEREAS, Veterans of the armed services generally assume that they are entitled to military honors at their funerals, but such a right is not specifically established in federal statutes; and

WHEREAS, Due to the lack of specific provision for military

honors in federal statutes, such honors have not been extended on a uniform basis; and

WHEREAS, Requests for such honors have been denied in instances where they originate from the expressed wish of the veteran while living, or at the request of the veteran's family after death; and

WHEREAS, Establishing a specific right of veterans to have military honors at their funerals is a worthy and desirable public policy; 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 giving veterans of the armed services the right to military honors at their funerals, with the honor detail to be furnished by the nearest military installation; 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 83

Assembly Concurrent Resolution No. 159—Relative to solar energy for the Palm Desert Middle School.

[Filed with Secretary of State August 11, 1976.]

WHEREAS, Solar energy is recognized as a viable alternate energy source; and

WHEREAS, The area surrounding and including the City of Palm Desert is considered a prime location for the utilization of solar energy; and

WHEREAS, The construction plans for the proposed Palm Desert Middle School of the Desert Sands Unified School District call for a solar energy heating and cooling system; and

WHEREAS, The educational value of a solar energy project would benefit the students of the Desert Sands Unified School District as well as students attending universities and colleges in the surrounding area; and

WHEREAS, The solar energy project would provide additional cost savings; and

WHEREAS, The solar heating and cooling project would serve as a model for energy development; and

WHEREAS, The Desert Sands Unified School District has applied to the Federal Energy Research and Development Administration for funding of the project; and

WHEREAS, The State Energy Resources Conservation and Development Commission is responsible for reviewing and recommending energy proposals; and

WHEREAS, Upon the approval of the Energy Research and Development Administration, the state, through the State Energy Resources Conservation and Development Commission, would be required to match funds in the amount of forty-five thousand dollars ($45,000); now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Energy Resources Conservation and Development Commission, upon the approval of an Energy Research and Development Administration grant, provide the funding necessary to begin construction of a solar energy heating and cooling system for the Palm Desert Middle School.

RESOLUTION CHAPTER 84

Assembly Concurrent Resolution No. 165—Relative to water conservation.

[Filed with Secretary of State August 11, 1976.]

WHEREAS, The water resources of the state are vital to the health, safety, and welfare of the people of the State of California; and

WHEREAS, It is the policy of the state that this important resource should be conserved and not wasted; and

WHEREAS, The state and its agencies should lead in practices of water conservation as an example for other public and private entities; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That all agencies of the state are requested to review their programs and activities to determine where feasible water conservation practices can be adopted and to adopt such practices at the earliest time practicable; and be it further

Resolved, That the Department of Water Resources is hereby requested to confer and advise with other agencies of the state on water conservation practices and to make recommendations thereon; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Water Resources.

1165 28 10555 505

RESOLUTION CHAPTER 85

Assembly Concurrent Resolution No. 93—Relative to State Highway Route 126.

[Filed with Secretary of State August 16, 1976.]

WHEREAS, The El Dorado Mobile Home Estates, a residential mobilehome park within the City of Fillmore, is occupied by 239 people in 123 units and a total of 230 motor vehicles are owned and operated by inhabitants of the park; and

WHEREAS, An additional 104 mobilehome residences are about to be installed in the park, and a proportionate increase in the numbers of inhabitants and vehicles is expected in the next 10 months; and

WHEREAS, A high proportion of the residents of the park are retired and elderly, and therefore require all the road safety protection that can be made available to them; and

WHEREAS, The single entrance to the park discharges into State Highway Route 126, a two-lane roadway at the entrance point; and

WHEREAS, The entry into the park by vehicles traveling east on Route 126 subjects them to considerable danger of rear-end collision as they are decelerating to right turn into the park; and

WHEREAS, There is sufficient right-of-way width for a considerable distance east and west of the park entrance along Route 126 to allow for the retention of the existing left-turn pocket for westbound traffic and the construction of a right-turn deceleration lane for eastbound traffic; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Highway Commission allocate the necessary funds so that the Department of Transportation may construct a right-turn deceleration lane for eastbound traffic on State Highway Route 126 at the entry point to the El Dorado Mobile Home Estates in the City of Fillmore; and be it further

Resolved, That the existing left-turn pocket at the entry point for westbound traffic be retained; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Highway Commission and the Director of Transportation.

RESOLUTION CHAPTER 86

Assembly Concurrent Resolution No. 177—Relative to State Highway Route 55.

[Filed with Secretary of State August 16, 1976.]

WHEREAS, State Highway Route 55 from Route 91, the Riverside Freeway, to its proposed terminus at or near 15th Street at the south boundary of the City of Costa Mesa is designated officially as the Newport Freeway; and

WHEREAS, It is the general practice to name a freeway route for the city where it terminates; and

WHEREAS, Route 55, a freeway, presently terminates at the south boundary of the City of Costa Mesa at or near the intersection of a projection of 15th Street and Superior Avenue; and

WHEREAS, There are no plans to construct Route 55 further in a southerly direction to join with Route 1, the Pacific Coast Highway; and

WHEREAS, The City of Costa Mesa has vigorously and continuously supported the Department of Transportation in its freeway plans and proposals for Route 55; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 55 from Route 91 to the southern boundary of the City of Costa Mesa is hereby officially redesignated and named the Costa Mesa Freeway; and be it further

Resolved, That the Division of Highways in the Department of Transportation is hereby requested to erect and maintain appropriate signs on that portion of Route 55 showing its 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 87

Assembly Joint Resolution No. 57—Relative to the Voting Rights Act of 1965.

[Filed with Secretary of State August 16, 1976.]

WHEREAS, The Voting Rights Act of 1965 was extended pursuant to the amendments contained in Public Law 94-73; and

WHEREAS, Public Law 94-73 also added a new provision to the Voting Rights Act of 1965, Section 203 (42 USC, Sec. 1973aa et seq.), which requires, among other things, each state and political subdivision to provide voter registration and election materials in other than the English language whenever 5 percent of the citizens of voting age of the state or political subdivision are members of a single-language minority; and

WHEREAS, There are currently 39 counties situated in California, which, because of the federal interpretation of the new provisions of the Voting Rights Act of 1965, require the state to send multilingual elections material to every voter in the affected counties; and

WHEREAS, In order to comply with this federal mandate, it is estimated that the cost of the paper for printing the 1976 June and November statewide ballot materials, coupled with the increased postage costs, will cost California state and local government $15,800,000, which figure does not include certain added local costs, such as the administration of strictly local sample ballot materials; and

WHEREAS, Furthermore, the Secretary of State has indicated, based on the most accurate estimates available of number of proposals, number of pages to print the pertinent information relating to ballot measures, and the number of registered voters for the 1976 elections, that it will take 26,000,000 pounds of already scarce newsprint to print statewide voter pamphlets in three languages; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respecfully memorializes the Congress of the United States to adopt appropriate amendments to the Voting Rights Act of 1965, exempting the State of California and its political subdivisions from the absolute requirement that election materials be provided in other than the English language, so that bilingual election materials may be provided by the Secretary of State or county clerks upon request; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 88

Assembly Joint Resolution No. 66—Relative to public utilities.

[Filed with Secretary of State August 16, 1976.]

WHEREAS, Many private electric utilities during the past two years have forced repeated sharp increases in wholesale rates upon municipal systems, thereby raising doubts in the public mind concerning the credibility of such municipal operations; and

WHEREAS, In many cases the wholesale power rate charged to such municipal systems is considerably higher than the rate charged to industrial customers by such private utilities; and

WHEREAS, The Federal Power Commission has refused to consider such rate discrimination against municipal utilities and is appealing a recent court of appeals decision which would require the commission to consider and correct this price squeeze situation; and

WHEREAS, A continuance of this price squeeze has caused many to question whether these municipal systems should be continued in operation, thereby inhibiting the development of publicly owned

alternative energy resources and endangering the fiscal well-being of such cities; and

WHEREAS, Under existing Federal Power Act procedure these wholesale rate increases are normally made effective within 30 days after filing, or at the latest within a five-month suspension; and

WHEREAS, The final decision of such rate cases before the commission generally takes two years or longer while such rates are in effect; and

WHEREAS, An amendment to the Federal Power Act could provide for appropriate hearings before rate increases are permitted, to reflect the consumer's interest as well as the private utility's interest; 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 give urgent consideration to amending the Federal Power Act to provide that no wholesale rate increases become effective until hearings have been completed and a final order issued by the Federal Power Commission upholding the lawfulness of all or a portion of any such increase; 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 89

Assembly Joint Resolution No. 76—Relative to federal employee pensions.

[Filed with Secretary of State August 16, 1976.]

WHEREAS, While California law severely limits annual cost-of-living adjustments of the pensions of retired public employees, the pensions of retired federal employees are adjusted by the full cost of living plus an additional 1 percent; and

WHEREAS, It has been estimated that the federal adjustments will cost 400 billion dollars over the retirement life of current and retired federal employees; 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 repeal the provisions of federal law which provide for retired federal employees to have their pensions annually adjusted by an additional 1 percent above the increase in cost of living and to rebate the savings to the states as a special revenue-sharing program for state

and local public employee retirement cost-of-living adjustments; 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 90

Assembly Concurrent Resolution No. 121—Relative to the Edwin L. Z'berg-Sugar Pine Point State Park.

[Filed with Secretary of State August 17, 1976.]

WHEREAS, The recent tragic death of Assemblyman Edwin L. Z'berg has deeply saddened all Californians; and

WHEREAS, Ed Z'berg dedicated his legislative career largely to the protection of the environment and to the preservation of the natural resources of the state; and

WHEREAS, Ed Z'berg will be remembered as a pioneer and dynamic force in the struggle to protect Lake Tahoe, and it is known that Sugar Pine Point State Park at Lake Tahoe was his favorite place of refuge from the cares of legislative concerns; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Park and Recreation Commission is requested to rename the Sugar Pine Point State Park, the Edwin L. Z'berg-Sugar Pine Point State Park; and be it further

Resolved, That the State Park and Recreation Commission is requested to make provisions for a suitable plaque to be erected at the entrance to the Edwin L. Z'berg-Sugar Pine Point State Park; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the State Park and Recreation Commission.

RESOLUTION CHAPTER 91

Assembly Joint Resolution No. 72—Relative to veterans.

[Filed with Secretary of State August 17, 1976.]

WHEREAS, Educational training for veterans is granted as a readjustment aid in returning to civilian life; and

WHEREAS, Economic conditions mandate retraining unemployed veterans; and

WHEREAS, On June 1, 1976, 3,656,000 veterans now eligible for educational benefits will lose those benefits due to the delimiting date; and

WHEREAS, More than 839,000 of those are Vietnam-era veterans; and

WHEREAS, Many veterans were not properly informed of their benefits and limitations on those benefits when they were discharged; and

WHEREAS, Many veterans faced financial responsibilities or other commitments which precluded their attending a college or were able to attend only on a part-time basis; and

WHEREAS, Thousands of veterans continuing their education without Veterans' Administration assistance will be faced with a difficult financial situation; and

WHEREAS, Those who discontinue their education may be placed on unemployment or welfare rolls; and

WHEREAS, The delimiting date is inconsistent with administration policy to reduce the welfare and unemployment rolls; 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 memorialize the Congress of the United States to enact legislation removing the time limitation and allowing veterans to utilize all of their educational benefits; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution 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 92

Assembly Joint Resolution No. 34—Relative to the Hughes Flying Boat.

[Filed with Secretary of State August 17, 1976]

WHEREAS, Time is diminishing for the opportunity for anyone to view the largest seaplane ever constructed and flown, the "Hughes Flying Boat" (HK 1), before it is dismantled for shipment to various museums across the United States; and

WHEREAS, Many aviation enthusiasts are trying desperately to delay what amounts to the destruction of this classic airplane while they make arrangements to preserve it intact; and

WHEREAS, The HK 1 would be of immense value and a great attraction to the citizens of the State of California, who, having been attracted to numerous newspaper pictures and articles of the HK 1 and the few short television documentaries of its history, would be

elated at the opportunity of viewing this enormous seaplane, which has a wingspan 60 percent larger than that of a Boeing 747, is built almost entirely of wood, and can be appreciated only if seen intact; and

WHEREAS, Few people have had an opportunity to see this airplane and review the technology that made its construction possible, and, with this opportunity now in sight, it does not seem reasonable to cut the plane up and ship its pieces to different locations; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Members, on behalf of the citizens of the State of California who have never seen this plane except for photographs, request the Federal General Services Administration, the Smithsonian Institute, the executor or administrator of the estate of Howard R. Hughes, when such person is appointed, and the Summa Corporation to take whatever actions are needed to permit public viewing of this plane before it is dismantled, so that those who have the desire may also have the opportunity to see this mighty seaplane on exhibition; and be it further

Resolved, That the Members request the Department of Parks and Recreation and the Department of Transportation to negotiate with the Federal General Services Administration, the Smithsonian Institute, the executor or administrator of the estate of Howard R. Hughes, when such person is appointed, and the Summa Corporation, and the City of Long Beach to determine the feasibility for such a public viewing; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Board of Directors of the Summa Corporation, the Director of the Federal General Services Administration, the City Manager of the City of Long Beach, the Director of Parks and Recreation, the Director of Transportation, and to the executor or administrator of the estate of Howard R. Hughes, when such person is appointed.

RESOLUTION CHAPTER 93

Senate Concurrent Resolution No. 72—Relative to the San Joaquin Master Drain.

[Filed with Secretary of State August 17, 1976.]

WHEREAS, The State Water Project includes a proposed master drainage facility for removal of drainage water from the San Joaquin Valley; and

WHEREAS, Several hundred thousand acres of presently productive land will become seriously degraded unless corrective measures to remove drainage water from the San Joaquin Valley are provided; and

572 28111 35 549

WHEREAS, Continued and intensified use of the San Joaquin River to remove drainage water may affect the Sacramento-San Joaquin Delta waters; and

WHEREAS, Discharge of undiluted drainage water from the proposed master drainage facility into the Sacramento-San Joaquin Delta may affect the agricultural, domestic, and recreational uses and valuable fish and wildlife resources of the delta; and

WHEREAS, The water supplies in the State Water Project are invaluable for the agriculture industry of the state, as well as for domestic use, recreational use, and fish and wildlife preservation; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Water Resources, in cooperation with appropriate federal, state, and local agencies and private organizations and individuals, is requested to review alternatives to the discharge in the Sacramento-San Joaquin Delta of drainage waters from the proposed master drainage facility in the San Joaquin Valley; and be it further

Resolved, That such review shall emphasize maximum use and reuse being made of all waters in the San Joaquin Valley before such waters are discharged from the valley; and be it further

Resolved, That the Department of Water Resources report its findings and recommendations to the Governor and the Legislature on or before September 30, 1978; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Water Resources.

RESOLUTION CHAPTER 94

Senate Concurrent Resolution No. 73—Relative to the Sacramento-San Joaquin Delta facilities.

[Filed with Secretary of State August 17, 1976.]

WHEREAS, The original schedule for commencement of construction of facilities in the Sacramento-San Joaquin Delta for the State Water Project has been deferred for two years; and

WHEREAS, Before a decision is made to construct specific facilities in the Sacramento-San Joaquin Delta, there are substantial policy and technical matters which should be resolved; and

WHEREAS, Such matters include (1) federal participation in facilities in the Sacramento-San Joaquin Delta, (2) the authorized purposes of the federal Central Valley Project, (3) federal compliance with water quality standards in the Sacramento-San Joaquin Delta, (4) the coordinated operation of the federal facilities of the Central Valley Project and the State Water Project, (5) a

573 28111160 554

determination of the amount of water in the Sacramento-San Joaquin Delta which is surplus, (6) measures to protect fishery resources of the Sacramento-San Joaquin Delta, and (7) evaluation of alternatives to the construction of a peripheral canal, including offstream storage in the Sacramento and San Joaquin Valleys, conjunctive use of surface and ground water supplies, water conservation, and waste water reclamation; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Water Resources, in cooperation with affected federal, state, and local agencies, and private interests, and individuals, is requested to review the policy and technical matters which should be resolved prior to proceeding with the construction of facilities in the Sacramento-San Joaquin Delta for the State Water Project; and be it further

Resolved, That the Department of Water Resources report its findings and recommendations to the Governor and the Legislature on or before July 1, 1977, and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Water Resources.

RESOLUTION CHAPTER 95

Senate Concurrent Resolution No. 80—Relative to State Highway Route 105.

[Filed with Secretary of State August 17, 1976.]

WHEREAS, State Highway Route 105, the Century Freeway, is currently proposed as an eight-lane facility with a transitway within the median and thus is the first multimodal freeway proposed in California to include separate transit facilities in the median; and

WHEREAS, The Century Freeway will provide much needed access to the Los Angeles International Airport, which is currently handling 23½ million passengers a year and is projected to handle 40 million by 1990, and, based on current trip demands within the transportation corridor, the freeway will be one of the busiest transportation facilities in the United States; and

WHEREAS, Construction of the Century Freeway has been delayed for nearly four years due to litigation on the required environmental impact statement and, after expenditures of approximately $4 million in legal fees, the litigation is about to be resolved; and

WHEREAS, It would be necessary to redesign the Century Freeway, hold new public hearings, and prepare a new environmental impact statement if the freeway is downscoped as suggested by the Secretary of the Business and Transportation Agency; and

WHEREAS, The freeway, as proposed, is compatible with the wishes of all public agencies involved with the transportation corridor, and major portions of the freeway alignment were adopted by the California Highway Commission in 1965; and

WHEREAS, The areas in and around the adopted freeway alignment have been severely impacted for over 10 years pending construction of the freeway, and further delay for additional study and redesign would be intolerable; and

WHEREAS, To date, approximately $180 million have been spent on the design of, to hold public hearings on, to prepare the environmental impact statement on, and to acquire over 60 percent of the required right-of-way for the Century Freeway; and

WHEREAS, The right-of-way acquisition program for the Century Freeway was the first such program to provide relocation assistance for the relocation of residents and businesses as a result of land acquisition, and the procedures under that innovative program have become a pattern for the federal government for all relocation assistance programs; and

WHEREAS, The Century Freeway is included within the National System of Interstate and Defense Highways and, as such, will be 92-percent federally funded; and

WHEREAS, Under current federal highway program allocation formulas, California receives less than 63 percent of the federal highway revenues it generates and thus is a donor state; and

WHEREAS, If the Century Freeway is not constructed as proposed, the percentage of federal highway revenues generated in California that would be returned to the state would be further reduced; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Highway Commission and the Department of Transportation are hereby requested to let contracts for the construction of the eight-lane Century Freeway (State Highway Route 105) with a transitway in the median immediately upon final adjudication of the lawsuit regarding the environmental impact statement prepared for the freeway; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of the Business and Transportation Agency, the California Highway Commission, and the Director of Transportation.

RESOLUTION CHAPTER 96

Senate Concurrent Resolution No. 82—Relative to government contracts.

[Filed with Secretary of State August 17, 1976.]

582 28 11 220 566

WHEREAS, Many legal and political inhibitions prevent government from using private organizations to carry out government programs; and

WHEREAS, These inhibitions include specific prohibitions, procedural requirements, regulations, accounting requirements, and unwritten policies; and

WHEREAS, As a result of these inhibitions, government is unable to take advantage of certain benefits which private contracts might offer, including:

(1) Competition among service providers tends to lower cost;

(2) Overhead cost may be lowered through the use of small specialized organizations;

(3) Private organizations may have greater flexibility than government in the assignment of employees to various jobs; and

(4) Unsuccessful performers may be dropped; and

WHEREAS, The inhibitions against contracting for government services are so pervasive that legislators and executives may overlook contracting as a delivery system; and

WHEREAS, A study should be conducted to:

(1) Focus attention on this question and to think through the consequences of contracting in specific fields;

(2) Consider such areas as social service programs, criminal justice programs, rehabilitation programs, education, transportation, medical care, and building maintenance and custodial services; and

(3) Isolate areas where contracts might prove beneficial and determine what steps would have to be taken to bring about experimental programs; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members request the Commission on California State Government Organization and Economy to conduct a study with respect to services delivered by the state and local government entities to determine:

(1) What inhibitions exist prohibiting contracts as a means of delivering government services;

(2) What would be the economic consequences of the removal of these barriers;

(3) Specific areas where contracts might be tried as a delivery system; and

(4) The economic and fiscal consequences of using contracts for specific government services; and be it further

Resolved, That the commission is requested to make specific recommendations for legislative and executive action to the Legislature in a preliminary report and to make a final report on or before December 31, 1977; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Commission on California State Government Organization and Economy.

582 28 11 230 568

RESOLUTION CHAPTER 97

Senate Concurrent Resolution No. 110—Relative to commending Mr. Frank E. "Ed" Ray.

[Filed with Secretary of State August 17, 1976.]

WHEREAS, It has come to the attention of the members that August 22, 1976, has been declared "Ed Ray Day" in Chowchilla, in recognition and tribute to the heroism displayed by Mr. Frank E. "Ed" Ray, busdriver for the Dairyland School District, in the events surrounding the abduction of 26 Chowchilla schoolchildren on July 15, 1976; and

WHEREAS, Mr. Ray, who has been a resident of Chowchilla since 1931, has served as a busdriver for the school district for over 25 years, and he is a member of the Dairyland Fire Department; and

WHEREAS, Throughout the 27-hour ordeal, Mr. Ray displayed an exemplary balance of caution, clear thinking, and leadership, while continually comforting and protecting the children; and he was able to assert these heroic qualities with the cooperation and assistance of the schoolchildren; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members extend their highest commendations to Mr. Frank E. "Ed" Ray for his valiant efforts in such an extremely adverse situation, together with their heartiest congratulations upon the recognition being extended him by his fellow citizens in tribute to his heroism; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to Mr. Frank E. "Ed" Ray.

RESOLUTION CHAPTER 98

Senate Joint Resolution No. 60—Relative to the regional office of the Pacific Fisheries Management Council.

[Filed with Secretary of State August 17, 1976.]

WHEREAS, HR 200, the Fishery Conservation and Management Act of 1976, has been passed by the Congress of the United States and was signed by the President on April 13, 1976; and

WHEREAS, HR 200 mandates the establishment of regional councils in the coastal zones of the United States whose function it shall be to study the coastal fisheries, develop a management plan for coastal fisheries, and make recommendations to the Secretary of Commerce regarding the issuance of permits to foreign fishing vessels; and

WHEREAS, A Pacific Fisheries Management Council will be established by August 11, 1976; and

WHEREAS, Such Pacific Fisheries Management Council will have 13 voting members, eight selected by the Secretary of Commerce, from the States of California, Oregon, Washington, and Idaho; and

WHEREAS, The Pacific Fisheries Management Council must select a location for its operation; and

WHEREAS, The San Francisco Bay area is the most central and accessible location for such an operation; and

WHEREAS, The National Marine Fisheries Service presently maintains a research facility in the City of Tiburon; and

WHEREAS, There presently exists a heliport in the City of Sausalito which would provide ready access to the San Francisco International Airport; and

WHEREAS, Administrative offices, fisheries, mariculture, and marine activities are recognized as potentials for economic development in the Overall Economic Development Plan of Marin County; 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 Secretary of Commerce to establish the regional office of the Pacific Fisheries Management Council in Marin County, California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of Commerce, 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 99

Assembly Concurrent Resolution No. 120—Relative to Dutch elm disease.

[Filed with Secretary of State August 17, 1976.]

WHEREAS, The Dutch elm disease is the most devastating shade tree disease known in the United States; and

WHEREAS, Introduction into the state of this pest has been discovered to have occurred in Sonoma and Napa Counties; and

WHEREAS, Without immediate and continuing action the disease is likely to destroy 90 percent of an estimated 150,000 American and European elm trees at an estimated tree removal cost of fifty-four million dollars; and

WHEREAS, The destruction of these trees would be of great detriment to local communities, parks, streets, private property owners, and to the welfare of the people of the state; and

WHEREAS, The control and eradication of this disease will require the cooperation of the state acting through the Department of Food and Agriculture and local governmental agencies; and

WHEREAS, The state has made available an immediate emergency fund of $250,000 for the Department of Food and Agriculture to commence control and eradication efforts and the state has augmented this amount under Chapter 1000 of the Statutes of 1975 to make the sum of $950,000 available for the 1975–76 fiscal year; and

WHEREAS, This program effort is anticipated to extend for at least several years; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the policy of the State of California, acting through the Department of Food and Agriculture, to cooperate with local governmental agencies in the control and eradication of Dutch elm disease, with the department providing overall monitoring, detection, and laboratory services, and establishing necessary quarantines and eradication areas and supervision of control activities to the extent funds are provided for future years support by the state; and, be it further

Resolved, That in the event that local resources are not able to bear the cost of direct control and eradication activities such as spraying and tree removal, the Department of Food and Agriculture is requested to initiate a cost-sharing agreement with the counties and cities where infestations of the Dutch elm disease occur to assure proper disposal of infected materials; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Department of Food and Agriculture.

RESOLUTION CHAPTER 100

Assembly Concurrent Resolution No. 196—Relative to disabled persons.

[Filed with Secretary of State August 17, 1976.]

WHEREAS, Reliable estimates of the number of disabled persons in California, their varying needs, and the appropriateness of present and potential public and private services for these persons are essential to provide cost-effective employment, housing, transportation, rehabilitation, health, education, recreation, and other services for such citizens; and

WHEREAS, Comprehensive, reliable, and up-to-date estimates regarding the number of such persons and their varying needs do not presently exist; and

WHEREAS, Public funds expended for aid and services to disabled persons in California exceed one billion dollars ($1,000,000,000) annually; and

WHEREAS, A comprehensive survey of the number and needs of disabled persons would provide more reliable, consistent, and useful

data than is now provided by current efforts, which are limited in scope; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Rehabilitation is requested, with the participation and assistance of other appropriate departments and agencies, including the Departments of Education, Employment Development, Benefit Payments, Health, Housing and Community Development, Transportation, Parks and Recreation, and Finance (Population Research Unit), the Fair Employment Practices Commission, the State Personnel Board, and the segments of public postsecondary education, to study the feasibility and desirability of a comprehensive needs survey of California's disabled population, the costs and benefits of such a survey, the details of information which should be included, alternative methods of undertaking such a survey, and recent efforts to establish such information, and to report their findings and recommendations to the Legislature not later than February 1, 1977; and be it further

Resolved, That the Chief Clerk of the Assembly is requested to send copies of this resolution to all of the agencies mentioned in the foregoing paragraph.

RESOLUTION CHAPTER 101

Assembly Joint Resolution No. 62—Relative to abandoned airplane wreckage.

[Filed with Secretary of State August 17, 1976.]

WHEREAS, Abandoned airplane wreckage hampers or delays the actual rescue attempt to find survivors of airplane crashes when rescue groups are mistakenly dispatched to old wreckage, thereby creating additional and unnecessary expense; and

WHEREAS, Abandoned airplane wreckage creates needless additional hazards to search and rescue units; and

WHEREAS, Abandoned airplane wreckage is frequently spotted and reported as a "down plane" creating needless extra work for law enforcement officials, land agency administrators, and search and rescue coordinators, who must deal with these reports; and

WHEREAS, The common practice of abandoning airplane wreckage on the less accessible terrain of the California countryside has resulted in a buildup of hundreds of abandoned wrecks; and

WHEREAS, In the absence of regulations, airplane wreckage is still being abandoned in California, usually after it is stripped of valuables, although some land agencies are now trying to force the complete removal of new airplane wreckage from their lands on a case-by-case basis; and

WHEREAS, Abandoned wreckage represents a blight on the

262 28 11 355 593

countryside that, if not removed, will exist indefinitely; and

WHEREAS, Scavengers will often scatter wreckage or alter the appearance of known wreckage in their search for valuables and souvenirs; and

WHEREAS, Metal from an airplane wreckage that is not recycled represents a loss of an increasingly scarce nonrenewable resource; and

WHEREAS, The nature of air travel indicates a need for a federal approach when dealing with specific reforms; 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 prohibit the abandonment of airplane wrecks in California and elsewhere in the nation, as it deems appropriate, except in exceptional circumstances where removal would endanger life; 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, to each Senator and Representative from California in the Congress of the United States, to the Federal Aviation Administration, and to the National Transportation Safety Board.

RESOLUTION CHAPTER 102

Assembly Concurrent Resolution No. 100—Relative to the assessment of real property located within future freeway development.

[Filed with Secretary of State August 17, 1976.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Board of Equalization is hereby requested to undertake a review of the methods used by county assessors in determining the assessed value of real property located within, but not yet acquired for, future freeway development, and to submit its findings and recommendations to the Legislature not later than the first Monday in February, 1977; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Board of Equalization.

RESOLUTION CHAPTER 103

Assembly Joint Resolution No. 51—Relative to packers and stockyards.

[Filed with Secretary of State August 18, 1976]

WHEREAS, The Packers and Stockyards Act of 1921 (7 M.S.C.A., Secs. 201, et seq.) was enacted to insure that the stockyard owners who own or operate livestock scales would be responsible for the accurate weighing of livestock; and

WHEREAS, In general, the act provides for the suspension of stockyard operations for violating some provisions of the act and for either suspension of stockyard operations or a fine for violating other provisions of the act; and

WHEREAS, Such lack of uniformity in available sanctions may result in the unequal treatment of persons who come under the provisions of such act; and

WHEREAS, This lack of uniformity in the law prevents the United States Department of Agriculture from exercising any discretion when a violation of the act comes under the provision of law which only provides for suspension of operations; and

WHEREAS, Such lack of flexibility often causes a great deal of economic hardship on the community where stockyard operations have been suspended for violation of the Packers and Stockyards Act of 1921; 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 Congress of the United States to take all the necessary actions to modify the Packers and Stockyards Act of 1921 to provide for the imposition of fines as an alternative sanction to suspension of any operation for violating any provision of the act; 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 104

Assembly Joint Resolution No. 67—Relative to student financial aid.

[Filed with Secretary of State August 18, 1976.]

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests that the Congress of the United States and the Department of Health, Education, and Welfare adopt the draft prototype form developed by the National Task Force on Student Financial Aid Problems, with appropriate technical modifications, as the single document to be used for collecting data for need analysis for all federal student aid programs beginning in the 1976–77 processing

267 2811415 605

year or as soon thereafter as feasible; and be it further

Resolved, That the Department of Health, Education, and Welfare and the Office of Education make appropriate changes in the federal appropriations schedules and in their own administrative procedures to permit processing of the basic grant applications to begin by September 15th of each year and for announcements of the SSIG, SEOG, CWSP, and NDSL allocations to be made by November 1st of each year, provided that application deadlines for these programs are not moved up; 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, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the Department of Health, Education, and Welfare, and the United States Commissioner of Education.

RESOLUTION CHAPTER 105

Assembly Concurrent Resolution No. 169—Relative to data collection.

[Filed with Secretary of State August 18, 1976.]

WHEREAS, Testimony presented at hearings conducted throughout the state in October, November, and December of 1975 by the Joint Subcommittee on Community Development called attention to the growing support of local government officials for integration of social and physical planning; and

WHEREAS, A major impediment to such plan integration was identified as a lack of consistent data collection on social problems and social programs; and

WHEREAS, The major provider of social services and the major repository of social data in California is the state and its administrative agencies, now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Office of Planning and Research, in cooperation with the Forms Management Center of the Department of General Services, is requested to study the content and format of forms used by state social agencies and by private agencies providing social services under contract to the state to make required reports of their services and programs to the state to determine the feasibility of establishing a common format which would make data usable across programs and agencies, reduce duplication, and facilitate the establishment of a comprehensive pool of social information without violating any individual's constitutional right to privacy for the use of local governments in making

comprehensive plans for the growth and development of their communities; and be it further

Resolved, That such a study, which should include suggested revisions of the existing reporting systems, be submitted to the Legislature by July 1, 1978; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of the State Office of Planning and Research and the Director of the Department of General Services.

RESOLUTION CHAPTER 106

Assembly Concurrent Resolution No. 74—Relative to in-service training of educators.

[Filed with Secretary of State August 19, 1976.]

WHEREAS, For the first time, commencing with the 1974–75 school year, more than 450 California school districts have been required to offer staff in-service preparation in the history, culture, and current problems of diverse ethnic groups pursuant to Article 3.3 (commencing with Section 13344) of Chapter 2 of Division 10 of the Education Code; and

WHEREAS, Information from the State Department of Education indicates that few districts have mandated teacher participation, and, in many others, there has been relatively little voluntary participation in these courses and in-service activities; and

WHEREAS, In every school district there are some resources for staff development, and the California School Boards Association has urged that a reasonable proportion of categorical aid funds be devoted to staff development for purposes of in-service training pursuant to Article 3.3 (commencing with Section 13344) of Chapter 2 of Division 10 of the Education Code; and

WHEREAS, The California Ethnic Heritage Program has been initiated with assistance under Title IX of the Federal Elementary and Secondary Education Act to identify curriculum materials for teaching children to understand and appreciate ethnic and cultural diversity in this state and the nation, an area of instruction with goals closely related to those of the staff in-service program; and

WHEREAS, California Educators Association of California Intergroup Relations Educators, at a conference in Los Angeles in April of 1975, have urged broader guidelines for multicultural education and in-service preparation to include coverage of all ethnic, national origin, and religious groups, with adequate funding to support such programs; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That school districts are requested to utilize available resources for the in-service education of their staffs,

174 2811470 616

including resources provided by categorical aid programs in eligible schools, in such a way that the purposes of Article 3.3 (commencing with Section 13344) of Chapter 2 of Division 10 of the Education Code are fulfilled to the extent possible with such resources; and be it further

Resolved, That the State Department of Education is requested to review the implementation of Article 3.3 (commencing with Section 13344) of Chapter 2 of Division 10 of the Education Code; to analyze the problems in obtaining wider participation, in broadening the scope of in-service courses and programs, in increasing the human and material resources for such activities, and in relating in-service preparation to ethnic heritage curriculum and instruction; and to report to the Legislature no later than January of 1977 with recommendations on the progress of school districts in implementing the intent of Article 3.3 (commencing with Section 13344) of Chapter 2 of Division 10 of the Education Code, together with any recommendations for any legislative changes deemed desirable.

RESOLUTION CHAPTER 107

Assembly Concurrent Resolution No. 162—Relative to the water supply of the Suisun Marsh.

[Filed with Secretary of State August 19, 1976.]

WHEREAS, The Suisun Marsh is a major habitat for wild waterfowl and is a precious and irreplaceable natural resource; and

WHEREAS, This habitat will be lost unless a management program is instituted which, among other things, will control the salinity of the soil in the Suisun Marsh at levels which will sustain waterfowl food plants; and

WHEREAS, Reduced delta water outflows may substantially increase the salinity of the water supplies of the Suisun Marsh which may in turn increase its soil salinities; and

WHEREAS, There is need to develop the optimum program to preserve and enhance the Suisun Marsh and to authorize its implementation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Water Resources is hereby requested to investigate and report on the water requirements of the Suisun Marsh necessary to preserve its existing waterfowl habitat and, if possible, to enhance it, to identify sources of a water supply of adequate quality and quantity necessary to meet such requirements, to define and to evaluate alternative methods of water delivery, distribution, and management, to identify the costs of such alternative methods, and to discuss and recommend methods

1162 2811495 621

of financing and methods of repayment of the cost of those facilities; and be it further

Resolved, That no later than January 15, 1977, the Department of Water Resources shall affirm to the Legislature its commitment to initiate and participate in the implementation of those measures found necessary to protect and, if possible, enhance the waterfowl habitat of the Suisun Marsh as determined by those studies presently being conducted; and be it further

Resolved, That the department shall also indicate the degree of its participation and the means by which it intends to participate; and be it further

Resolved, That the Department of Water Resources shall submit to the Legislature interim reports of the status of such studies and the program for the Suisun Marsh not later than January 15, 1977, and not later than January 15, 1978; and be it further

Resolved, That no later than January 15, 1979, the Department of Water Resources shall report to the Legislature the results of such studies, its recommendations of the means by which there shall be made available to the Suisun Marsh water of a quality and quantity sufficient to sustain at not less than present levels and, if possible, to enhance the waterfowl food supply of the Suisun Marsh, and its estimates of the costs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Resources Agency, the Director of the Department of Water Resources, and the Director of the Mid-Pacific Region of the United States Bureau of Reclamation.

RESOLUTION CHAPTER 108

Senate Concurrent Resolution No. 108—Relative to schoolbus safety.

[Filed with Secretary of State August 19, 1976.]

WHEREAS, A very tragic schoolbus accident recently took the lives of 28 high school students; and

WHEREAS, Any additional safety measures which can be taken to help prevent a recurrence of such a terrible accident should be taken at the earliest possible time; and

WHEREAS, There is in existence, in the State of California, a fail-safe brake system which operates in addition to the standard brake system, and such fail-safe system is available for installation in schoolbuses; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That each school district in this state is urged to install, in every schoolbus owned by the district, a fail-safe brake system which operates in addition to the standard brake system; and

be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the governing board of each school district in this state.

RESOLUTION CHAPTER 109

Assembly Concurrent Resolution No. 167—Relative to parking facilities for disabled persons.

[Filed with Secretary of State August 23, 1976.]

WHEREAS, Section 22511.8 of the Vehicle Code authorizes a local authority, by ordinance or resolution, and a person in possession of an off-street parking facility, to designate stalls or spaces for the exclusive use of physically handicapped persons with distinguishing license plates issued to disabled persons; and

WHEREAS, Under Section 22511.7 of the Vehicle Code, local authorities may, by ordinance or resolution, designate parking spaces for the exclusive use of physically handicapped persons with distinguishing license plates or disabled veterans; and

WHEREAS, Enactment of local regulations in accordance with the Vehicle Code on parking spaces affecting disabled persons and vigorous enforcement is necessary to provide sufficient parking facilities for disabled persons; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That local authorities be urged and encouraged to enact appropriate regulations to designate parking spaces for disabled persons in accordance with Vehicle Code provisions and that such newly enacted regulations be vigorously enforced; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each city, county, and city and county in this state.

RESOLUTION CHAPTER 110

Assembly Joint Resolution No. 74—Relative to the Santa Monica Mountains and seashore.

[Filed with Secretary of State August 24, 1976.]

WHEREAS, The Santa Monica Mountains and seashore constitute the last great expanse of open space in the Los Angeles metropolitan area; and

WHEREAS, The Santa Monica Mountains and seashore is a unique and valuable economic, environmental, agricultural, scientific, educational, and recreational resource which provides essential

relief from the urban environment and serves as an airshed for a severely polluted air basin; and

WHEREAS, The Santa Monica Mountains and seashore exist as a single ecosystem in which changes that affect one part may also affect all other parts; and

WHEREAS, Planning for the Santa Monica Mountains and seashore has been fragmented and not pursuant to a comprehensive plan for the entire area; and

WHEREAS, Without comprehensive, coordinated planning, piecemeal development may result in irreparable damage to the Santa Monica Mountains and seashore; and

WHEREAS, The preservation and protection of the Santa Monica Mountains and seashore for the present and future population of the region is in the public interest; 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 create a program for comprehensive planning, including an urban park and recreation area, in the Santa Monica Mountains and seashore that reflects the significance of that area to residents of the region and to the nation as a whole and involves the cooperative effort of federal, state, and local governments, ; 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 111

Senate Concurrent Resolution No. 71—Relative to nursing homes.

[Filed with Secretary of State August 25, 1976]

WHEREAS, The Legislature is concerned with the problems of senior citizens in nursing homes, the protection and care of such elderly persons and their human and social needs, and the lack of viable alternatives for the elderly to such institutional care; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Department of Health is directed to:

1. Review procedures for revocation and renewal of Medi-Cal contracts to better protect the right of patients and to insure that nursing homes are providing adequate quality care before being entrusted with human lives.

2. Improve public access to information by, among other

provisions, having information regarding nursing home complaints compiled and made available to the public.

3. Direct nursing home staff members to insure that all citizens are treated in a helpful and courteous manner.

4. Advise patients and their families about complaint followup procedures by requiring nursing homes to prominently display posters which detail the procedures and how to use them.

5. Include in the inspection process, by specific mandate, private interviews with individual nursing home employees in a manner to encourage a free flow of information relating to the nursing home conditions.

6. Review and improve procedures for initiating disciplinary or prosecutional action, as appropriate, against nursing homes and professional and other persons rendering services to the elderly in nursing homes to insure their competency and conformity with state and federal law; and be it further

Resolved, That the State Department of Health conduct a study of nursing homes and nursing home care, including the following subjects:

1. Providing incentives for the establishment of specialized geriatric medicine and gerontology programs for nurses and physicians.

2. Requiring training and certification in geriatric care for all nurses and aides in nursing homes, and providing wage parity with their counterparts in other health facilities.

3. Providing for an increase in Medi-Cal reimbursement rates for all homes which agree to achieve wage parity, and an annual review of those rates to reflect changes in the consumer price index and other cost-of-living indicators.

4. Requiring disclosure by nursing homes of ownership, and making such information available to the public.

5. Providing the means by which patients can be fully informed about relevant alternatives, including availability of supportive services provided to maintain the elderly in their own homes.

6. Requiring that each nursing home patient and responsible family member or guardian be given a written information sheet which lists agencies or persons to contact with problems or complaints.

7. Providing funds for a full spectrum of alternatives and complements to institutionalized long-term care, such as day-care centers, home health services, homemaker services, and other alternatives and complements; and be it further

Resolved, That such department report its' actions, findings and recommendations to the Legislature on the date specified by the Senate Rules Committee; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of the State Department of Health and to the board of supervisors of each county in this state.

571 28 11 605 643

RESOLUTION CHAPTER 112

Senate Concurrent Resolution No. 75—Relative to the University of California: medical malpractice cases and insurance premiums.

[Filed with Secretary of State August 25, 1976.]

WHEREAS, It is the intent of the Legislature that state agencies that provide services in the area of medicine shall be alert and industrious in an attempt to reduce the number of professional liability cases against the state and to reduce the number of lawsuits filed against the University of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Regents of the University of California are hereby requested to report to the Legislature within six months after the effective date of this resolution and annually thereafter, by January 1st of each year, the following statistics concerning professional liability cases filed against the University of California hospitals: number of cases, type of cases, judgments awarded, and discipline meted out by the University of California; and be it further

Resolved, That the regents include in such reports the amount paid out in medical insurance premiums for each doctor and each hospital, the extent to which premiums are paid by the university on behalf of medical faculty to cover potential suits by private patients, and the names of the doctors for which premiums are paid; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Regents of the University of California and each director of a University of California hospital.

RESOLUTION CHAPTER 113

Senate Concurrent Resolution No. 88—Relative to dairy inspection.

[Filed with Secretary of State August 25, 1976.]

WHEREAS, At present, dairy inspection in the State of California is conducted and administered by various city and county health departments and Department of Food and Agriculture personnel; and

WHEREAS, With the passage of time and with the occurrence of a variety of changes in the dairy industry in California, differing standards and methods for enforcement of dairy inspection regulations may have arisen; and

WHEREAS, It is desirable and in the public interest to consider improvement of dairy inspection throughout the state by a statewide inspection system, to standardize dairy inspection methods and

techniques, and to provide for uniform administration, interpretation, and enforcement of dairy inspection regulations and procedures; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Director of Food and Agriculture is requested to conduct a study of the desirability for the implementation of a statewide dairy inspection system, and the alternatives thereto, to meet and confer with representatives of the dairy industry, city and county health department officials, and other interested segments of the public, and to report his findings and recommendations regarding such statewide dairy inspection system to the Legislature no later than February 1, 1977; and be it further

Resolved, That a copy of this resolution be transmitted to the Director of Food and Agriculture.

RESOLUTION CHAPTER 114

Senate Concurrent Resolution No. 104—Relative to providing owner-building applicants with information and verification forms.

[Filed with Secretary of State August 25, 1976.]

WHEREAS, In order to adequately protect property owners making improvements on their property as owner-builders, it is necessary that they be given the following information:

"OWNER-BUILDER INFORMATION

"Dear Property Owner:

"A building permit has been applied for in your name listing yourself as the builder of the property improvements specified.

"For your protection you should be aware that as 'owner-builder' you are the responsible party of record on such a permit. Building permits are not required to be signed by property owners unless they are personally performing their own work. If your work is being performed by someone other than yourself, you may protect yourself from possible liability if that person applies for the proper permit in his or her name.

"Contractors are required by law to be licensed and bonded by the State of California and to have a business license from the city, county or city and county. They are also required by law to put their license number on all permits for which they apply.

"If you plan to do your own work, with the exception of various trades that you plan to subcontract, you should be aware of the following information for your benefit and protection:

"If you employ or otherwise engage any persons other than your immediate family, and the work (including materials and other

costs) is $100 or more for the entire project, and such persons are not licensed as contractors or subcontractors, then you may be an employer.

"If you are an employer, you must register with the state and federal government as an employer and you are subject to several obligations including state and federal income tax withholding, federal social security taxes, workers' compensation insurance, disability insurance costs, and unemployment compensation contributions.

"There may be financial risks for you if you do not carry out these obligations, and these risks are especially serious with respect to workers' compensation insurance.

"For more specific information about your obligations under federal law, contact the Internal Revenue Service (and, if you wish, the U.S. Small Business Administration). For more specific information about your obligations under state law, contact the Department of Benefit Payments and the Division of Industrial Accidents.

"If the structure is intended for sale, property owners who are not licensed contractors are allowed to perform their work personally or through their own employees, without a licensed contractor or subcontractor, only under limited conditions.

"A frequent practice of unlicensed persons professing to be contractors is to secure an 'owner-builder' building permit, erroneously implying that the property owner is providing his or her own labor and material personally. Building permits are not required to be signed by property owners unless they are performing their own work personally.

"Information about licensed contractors may be obtained by contacting the Contractors' State License Board in your community or at 1020 N Street, Sacramento, California 95814.

"Please complete and return the enclosed owner-builder verification form so that we can confirm that you are aware of these matters.

Very truly yours,

"Dept. of Building and Safety";

and

WHEREAS, An owner-builder information form and an owner-builder verification form should be mailed to all property owner applicants for a building permit to make their own improvements and should not be provided in person to the person applying for the permit; and

WHEREAS, The following is a proposed example, which may be varied by local agencies, of an owner-builder verification form:

"OWNER-BUILDER VERIFICATION

"Attention Property Owner:

"An "owner-builder" building permit has been applied for in your name and bearing your signature.

"Please complete and return this information in the envelope provided at your earliest opportunity to avoid unnecessary delay in processing and issuing your building permit. You are not legally required to do so, but it may be to your protection and benefit to do so.

1. I personally plan to provide the major labor and materials for construction of the proposed property improvement (yes or no) ___.

2. I (have/have not) _____ signed application for a building permit for the proposed work.

3. I have contracted with the following person (firm) to provide the proposed construction:

Name _____

Address _____ City _____

Phone _____ Contractors License No. _____

4. I plan to provide portions of the work, but I have hired the following person to coordinate, supervise and provide the major work:

Name _____

Address _____ City _____

Phone _____ Contractors License No. _____

5. I will provide some of the work but I have contracted (hired) the following persons to provide the work indicated.

Name	Address	Phone	Type of Work

Signed:

Property owner _____

Social security number _____

Date: _____";

now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the building and safety department of each city, county, and city and county is requested to provide by mail to every owner-builder applicant for a building permit for property improvements with the owner-builder information form listed in this resolution and not to provide such information in person to the person applying for the permit and to recommend obtaining a signed owner-builder verification form from each such applicant; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the building department of each city, county, and city and county in the state.

RESOLUTION CHAPTER 115

Senate Concurrent Resolution No. 109—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State August 25, 1976.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on the State's Economy is continued in existence through August 31, 1977, 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 116

Senate Joint Resolution No. 49—Relative to use of forest lands.

[Filed with Secretary of State August 26, 1976.]

WHEREAS, There is no clear, modern statement of policy for forestry on federal lands in the United States; and

WHEREAS, There is no comprehensive body of principles to guide the commitment and development of our federally owned forest resources; and, as a consequence, land classification decisions are being made without adequate policy direction; and

WHEREAS, There is both a great need and an exceptional opportunity for congressional leadership to be exercised in the development of a policy for national forests and for federal-state cooperative programs for forest resource management that will meet long-term needs for all forest products and will protect the soil and other productive elements of the forest resource base; 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 undertake all acts necessary to develop a national policy for the management of federally owned forests and related forest resources; 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 117

Assembly Concurrent Resolution No. 144—Relative to consumer affairs.

[Filed with Secretary of State August 26, 1976.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Director of the Department of Consumer Affairs shall, with the cooperation of such other departments of state government as he finds appropriate, examine the retail food delivery systems in low-income neighborhoods and report the finding of such examination and suggested policy alternatives to the Legislature not later than the first legislative day of 1977; and be it further

Resolved, That copies of this resolution be transmitted to the Director of Consumer Affairs.

RESOLUTION CHAPTER 118

Assembly Concurrent Resolution No. 241—Relative to the Joint Rules.

[Filed with Secretary of State August 26, 1976.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That subdivision (a) of 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

1241 28 12 155 681

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 one calendar day 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.

RESOLUTION CHAPTER 119

Assembly Concurrent Resolution No. 135—Relative to the Environmental Quality Act of 1970.

[Filed with Secretary of State August 30, 1976.]

WHEREAS, The Assembly Local Government Committee received in November 1975 a report evaluating the California Environmental Quality Act of 1970 and recommending changes and improvements therein; and

WHEREAS, Two such recommendations concern changes in the Guidelines for Implementation of the California Environmental Quality Act of 1970, as adopted and promulgated by the Secretary of the Resources Agency pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, as follows:

(a) Such guidelines be amended to indicate (1) the manner in which a "master environmental assessment" may be prepared that will inventory and list the significant environmental characteristics of an area, (2) the manner in which such master environmental assessment may be certified as adequate, (3) the manner in which the master environmental assessment shall be used to determine public policy with respect to preservation of such environmental characteristics, and (4) the manner in which such public policy is to be carried out and implemented by each local agency having jurisdiction within the area in question; and

(b) Such guidelines be amended to provide clear guidance to local governments about the manner in which they should identify, evaluate, and seek to mitigate adverse environmental impacts of specific projects which are areawide in nature, and consequently beyond the statutory jurisdiction of individual local governments (such as incremental increases in indirect sources of air pollution or

incremental increases in nonpoint sources of water pollution); and

WHEREAS, Subsequent committee hearings conducted during the 1975 fall legislative recess indicated strong agreement with and support for such recommendations; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Secretary of the Resources Agency is hereby requested to amend and rewrite the Guidelines for Implementation of the California Environmental Quality Act of 1970 to indicate the manner in which a "master environmental assessment" may be prepared that will inventory and list significant environmental characteristics of an area, (2) the manner in which such master environmental assessment may be certified as adequate, (3) the manner in which the master environmental assessment shall be used to determine public policy with respect to preservation of such environmental characteristics, and (4) the manner in which such public policy is to be carried out and implemented by each local agency having jurisdiction within the area in question; and be it further

Resolved, That the Secretary of the Resources Agency is hereby requested, after consulting appropriate state and local agencies, but in any event no later than January 1, 1977, to amend such guidelines so that they clearly indicate the manner in which local governments should identify, evaluate, and seek to mitigate adverse environmental impacts of specific projects which are areawide in nature and consequently beyond the statutory jurisdiction of such individual local governments, or, if the secretary determines that it is not possible or practicable to amend the guidelines in such a manner, to report such determination, together with the reasons therefor, to the Legislature no later than January 1, 1977; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Secretary of the Resources Agency.

RESOLUTION CHAPTER 120

Assembly Joint Resolution No. 53—Relative to the elimination of barriers to the physically handicapped at postsecondary educational institutions.

[Filed with Secretary of State August 30, 1976.]

WHEREAS, Section 504 of the Rehabilitation Act of 1973 guarantees equal rights to the handicapped and provides that ". . . no otherwise qualified handicapped individual in the United States . . . shall solely by reason of the individual's handicap be excluded from the participation in, be denied the benefits of, or be subjected to the discrimination under any program or activity

receiving Federal financial assistance"; and

WHEREAS, That same act reaffirmed the essential responsibility and function of various state agencies of vocational rehabilitation to "increase services to the severely disabled"; and

WHEREAS, The Elementary and Secondary Education Act of 1974 declares "it to be the policy of the United States of America that every citizen is entitled to meet his or her full potential without financial barriers . . ."; and

WHEREAS, It has been determined in a recent survey that in excess of $25,000,000, prorated over a period of three years, will be necessary in order to make California public postsecondary campuses free of architectural barriers that impede the movement of physically handicapped persons; and

WHEREAS, The California Department of Rehabilitation, the primary state agency charged with returning disabled citizens to employment, and the California community colleges, representing 100 campuses throughout California, that offer educational and training programs and services to over 30,000 physically, educationally, and mentally handicapped students, jointly desire to cooperate for the benefit of removing barriers to disabled citizens of California at its postsecondary educational institutions; and

WHEREAS, Presently, many vital educational and training programs are incapable of being attended by severely disabled persons strictly by virtue of the fact that they are unable to reach the classrooms or negotiate the terrain of the campuses; and

WHEREAS, This situation discriminates against otherwise qualified handicapped individuals solely by reason of their handicap by excluding disabled persons from participation in and benefiting from educational and training programs and activities now receiving federal financial assistance; and

WHEREAS, Barriers at postsecondary educational institutions deny the equal rights of the handicapped, now guaranteed by the Vocational Rehabilitation Act; and

WHEREAS, The cost of providing training and education to disabled citizens and thereby increasing their economic independence will be far less than the cost of continued public dependency; 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 Congress of the United States to take legislative action to appropriate the necessary funds to aid California's public postsecondary campuses to remove the architectural barriers that obstruct the mobility and functioning of disabled persons attempting to utilize existing public postsecondary educational buildings and campuses; 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 121

Senate Concurrent Resolution No. 99—Relative to water flow standards.

[Filed with Secretary of State August 30, 1976.]

WHEREAS, The Public Utilities Commission on April 15, 1975, in Decision No. 84334, established minimum standards for main water pressure and backup facilities associated with fire protection and provided a means for financing in new developments; and

WHEREAS, In various areas of the state, an adequate water fire flow cannot be obtained for fire protection; and

WHEREAS, It has been found that there is no requirement or method of financing to upgrade deficient water mains in existing neighborhoods; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Utilities Commission conduct a study to review and prescribe methods which public utility water suppliers can use to finance the upgrading of presently deficient water mains in older neighborhoods to provide water flow standards to meet requirements for fire protection and report the results of such study to the Legislature on or before June 1, 1977; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Public Utilities Commission.

RESOLUTION CHAPTER 122

Senate Concurrent Resolution No. 107—Relative to telegraph corporations.

[Filed with Secretary of State August 30, 1976.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Utilities Commission shall study the matter of requiring each telegraph corporation to require identification of the person requesting a telegram in order to assure that he or she is the person whose name is to be signed on the telegram or is properly authorized to send the telegram in that person's name; and be it further

Resolved, That the Secretary of the Senate shall transmit copies of this resolution to the Public Utilities Commission.

RESOLUTION CHAPTER 123

Senate Joint Resolution No. 53—Relative to the conservation of mineral resources.

[Filed with Secretary of State August 30, 1976.]

WHEREAS, Mineral resources are essential to the economy of the State of California and vitally important to public and private construction in this state; and

WHEREAS, The loss of mineral resources due to urbanization between 1970 and the year 2000 is estimated to total 17 billion dollars, if current practices are continued; and

WHEREAS, The estimated losses are based largely on the added cost to the public due to increasing transportation costs, the cost of relocating mining operations further from markets, and the use of lower-grade deposits that require more processing, and some mineral deposits being threatened by urbanization are unique and cannot be replaced, and

WHEREAS, Senate Concurrent Resolution No. 34 of the 1967 Regular Session urged cities, counties, and regional associations to cooperate with the Division of Mines and Geology of the Department of Conservation in development of the conservation of the mineral rock, sand, and gravel resources of the state; and

WHEREAS, Senate Bill No. 1402 of the 1967 Regular Session, if enacted, would have required the State Geologist to make inventory of the rock, sand, and gravel resources of any region of the state in which he determines that there is a serious threat that an adequate supply of rock, sand, and gravel will not continue to be available at a reasonable cost; and

WHEREAS, Senate Concurrent Resolution No. 89 of the 1971 Regular Session pointed out that the mineral resources of the State of California are essential to the economy of the state and are vitally supportive of every facet of various programs relating to housing, transportation, commerce, and industry; and

WHEREAS, Such resolution further requested the Division of Mines and Geology, in concert with the State Mining and Geology Board, to submit to the Governor and the Legislature proposed legislation regarding a state mined lands reclamation and use plan; and

WHEREAS, Chapter 1225 of the Statutes of 1972 declared state policy with regard to the utilization and conservation of mineral resources and provided that it is the responsibility of the State Geologist to carry out such policy; and

WHEREAS, Chapter 507 of the Statutes of 1973 required the annual report of the State Geologist to include the economic utilization and conservation of the state's mineral resources and problems related thereto; and

WHEREAS, Senate Bill 932 of the 1975–76 Regular Session, as

introduced, would have appropriated funds for the preparation of a full inventory of mineral resources, to be completed by January 1, 1980; 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 United States Geological Survey, the United States Bureau of Mines, and the California Division of Mines and Geology to intensify their efforts to catalog those mineral resources of critical importance to the future economy of California that are within, and adjacent to, urban areas; and be it further

Resolved, That local governments are requested to protect such critical mineral resources, access thereto, and the mining thereof within their jurisdictions by special zoning, including buffer zones around them as necessary, and to require mine operators to conduct operations as compatibly as practicable with their surroundings and to rehabilitate depleted mined lands for subsequent beneficial use, such as parks, open space, or urban development; and be it further

Resolved, That the Division of Mines and Geology is requested to make demand projections for the critical mineral commodities used in California, so that local governments are aware of their future mineral resource requirements and may plan better for the use of the deposits available to them; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the United States Geological Survey, the United States Bureau of Mines, and the California Division of Mines and Geology.

RESOLUTION CHAPTER 124

Senate Concurrent Resolution No. 37—Relative to geothermal steam.

[Filed with Secretary of State September 1, 1976.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Energy Resources Conservation and Development Commission is requested to study whether the Public Utilities Commission should be authorized to regulate the rates of charge for geothermal steam at the wellhead and to report thereon to the Legislature no later than six months after the adoption of this resolution; and be it further

Resolved, That a copy of this resolution be transmitted to the State Energy Resources Conservation and Development Commission.

537 28 12 320 714

RESOLUTION CHAPTER 125

Senate Concurrent Resolution No. 106—Relative to the adoption of the Conflict of Interest Code of the California Legislature.

[Filed with Secretary of State September 1, 1976.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the following conflict of interest code is hereby adopted as the Conflict of Interest Code of the California Legislature:

CONFLICT OF INTEREST CODE OF THE CALIFORNIA LEGISLATURE

ARTICLE I
GENERAL PROVISIONS

SECTION 1. In order to accomplish the objectives of existing law, the Senate and Assembly hereby adopt a conflict of interest code. The provisions of this code shall be in addition to the requirements of Article 1 (commencing with Section 87100) of Chapter 7 of Title 9 and Article 2 (commencing with Section 8920) of Chapter 1, Part 1, of Division 2 of the Government Code; Rule 44 of the Temporary Joint Rules of the Senate and Assembly as adopted for the 1975–76 Session; Rule 14 and Rule 24 of the Standing Rules of the Assembly and Rule 13 of the Standing Rules of the Senate; and any other applicable rule or provision of law relating to conflict of interest or financial disclosure.

SEC. 2. Unless otherwise provided, the definitions found in Chapter 2 (commencing with Section 82000) of Title 9 of the Government Code shall govern the interpretation of terms used in this code (see Article VIII of this code).

SEC. 3. The positions listed in Article II of this code are designated positions. Officers and employees holding these positions are deemed to be designated employees because of their involvement in the decisionmaking process at a level where the decision could foreseeably have a material financial effect, distinguishable from its effect on the public generally, on any financial interest reportable by such person under this code. No employee whose duties are solely clerical, secretarial, or manual shall be deemed a designated employee under this code.

SEC. 4. Designated positions shall be assigned to one or more of the disclosure categories set forth in Article III of this code.

ARTICLE II
DESIGNATED EMPLOYEES

SECTION 1. Those officers and employees of the Senate

classified as designated employees and their respective disclosure categories are as follows:

Disclosure Category A:
- Administrative assistant
- Assistant to caucus chairman
- Assistant to floor leader
- Assistant to president pro tempore
- Assistant consultant
- Assistant consultant, caucus
- Associate consultant
- Associate consultant, caucus
- Chief assistant secretary
- Chief; sergeant at arms
- Coordinator, caucus
- Director of research
- Executive officer
- Field coordinator
- Field representative
- Principal consultant
- Research aide
- Research aide, caucus
- Secretary of the Senate
- Senate fellow
- Senior consultant
- Senior consultant, caucus

Disclosure Category B:
- Accounting officer
- Duplicating supervisor
- Procurement and supplies assistant

Disclosure Category C:
- Senior consultant, communications

SEC. 2. Those officers and employees of the Assembly classified as designated employees and their respective disclosure categories are as follows:

Disclosure Category A:
- Administrative assistant
- Administrative secretary
- Analyst
- Analyst trainee
- Assembly fellow
- Assistant chief administrative officer
- Assistant chief clerk
- Assistant Director, Office of Research
- Assistant to chief administrative officer
- Assistant to Director, Office of Research
- Associate consultant
- Chief administrative officer
- Chief clerk
- Chief consultant

Chief sergeant at arms
Director
Legislative aide
Legislative assistant
Principal assistant
Principal consultant
Senior assistant
Senior consultant

Disclosure Category B:
Assistant to Rules Committee
Executive assistant
Fiscal officer
Librarian
Supervisor, reproduction

Disclosure Category C:
Newsletter coordinator

SEC. 3. Those officers and employees of all joint committees except the Joint Legislative Audit Committee and the Joint Legislative Budget Committee classified as designated employees and their respective disclosure categories are as follows:

Disclosure Category A:
Administrative coordinator
Analyst
Assistant chief administrative officer
Assistant consultant
Associate consultant
Chief administrative officer
Director
Executive assistant
Principal consultant
Research assistant
Senior consultant
Staff attorney

Disclosure Category B:
Fiscal officer
Registered nurse
Supervisor, joint services

SEC. 4. Those officers and employees of the Joint Legislative Audit Committee classified as designated employees and their respective disclosure categories are as follows:

Disclosure Category A:
Administrative officer
Auditor General
Assistant Auditor General
Audit manager
Auditor

Disclosure Category B:
Accountant
Duplicating supervisor

SEC. 5. Those officers and employees of the Joint Legislative Budget Committee classified as designated employees and their respective disclosure categories are as follows:

Disclosure Category A:
- Administrative analyst
- Assistant administrative analyst
- Chief deputy legislative analyst
- Deputy legislative analyst
- Legislative analyst
- Principal program analyst
- Program analyst

Disclosure Category B:
- Production supervisor

ARTICLE III
DISCLOSURE CATEGORIES

SECTION 1. Designated employees in Disclosure Category A must report:

(a) Investments, interests in real property, and income received from sources in the State of California, doing business within the State of California, planning to do business within the State of California, or having done business within the State of California within two years prior to any time period covered in a statement of financial interest (see Article VIII).

(b) His or her status as a director, officer, partner, trustee, employee, or holder of a management position in any business entity in the State of California, doing business within the State of California, planning to do business within the State of California, or having done business within the State of California within two years prior to any time period covered in a statement of financial interest.

SEC. 2. Designated employees in Disclosure Category B must report:

(a) Investments in any business entity and any income from a source which, within the previous two years did, or in the future foreseeably might, provide or contract with the California Legislature or with the State of California to provide services (including building construction, repair and maintenance), equipment, leased space, materials, supplies, or automobiles, tires, batteries, accessories, repairs, or maintenance to the California Legislature.

(b) The employee's status as a director, officer, partner, trustee, employee, or holder of any position of management in any business entity which, within the previous two years did, or in the future foreseeably might, provide or contract with the California Legislature or with the State of California to provide services (including building construction, repair and maintenance), equipment, leased space, materials, supplies, or automobiles, tires, batteries, accessories, repairs or maintenance to the California Legislature.

5106 28 12385 727

SEC. 3. Designated employees in Disclosure Category C must report:

(a) Investments in any business entity, or any income from a source which, within the previous two years did, or in the future foreseeably might, contract with the California Legislature or with the State of California to publish, print, prepare for printing, furnish or mail materials for the California Legislature.

(b) The employee's status as a director, officer, partner, trustee, employee, or holder of any position of management in any business entity which, within the previous two years did, or in the future foreseeably might, contract with the California Legislature or with the State of California to publish, print, prepare for printing, furnish or mail materials for the California Legislature.

ARTICLE IV
CONTENTS OF DISCLOSURE STATEMENTS

SECTION 1. Financial interest statements shall be submitted on forms supplied by the committee to which the designated employees are required to report.

SEC. 2. Contents of Investment and Interest in Real Property Statement

When an investment, or an interest in real property, is required to be reported, the statement shall contain the following:

(a) A statement of the nature of the investment or interest;

(b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;

(c) The address or other precise location of the real property;

(d) A statement whether the fair market value of the investment, or interest in real property, exceeds ten thousand dollars ($10,000), and whether it exceeds one hundred thousand dollars ($100,000). This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer;

(e) In the case of an investment which constitutes 50 percent or more of the ownership interest of a business entity, disclosure of the investments and interests in real property of the business entity; and

(f) If the investment, or interest in real property, was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

SEC. 3. Contents of Income Statement

When income is required to be reported, the statement shall contain the following:

(a) The name and address of each source of income aggregating two hundred fifty dollars ($250) or more in value, or twenty-five dollars ($25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

(b) A statement whether the aggregate value of income from

each source was greater than one thousand dollars ($1,000), and whether it was greater than ten thousand dollars ($10,000);

(c) A description of the consideration, if any, for which the income was received; and

(d) In the case of a gift, the amount and the date on which the gift was received.

SEC. 4. Contents of Business Entity Income Statement

When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:

(a) The name, address, and a general description of the business activity of the business entity; and

(b) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars ($10,000) during a calendar year.

ARTICLE V
FILING

SECTION 1. A designated employee required to submit a statement of financial interest shall submit an initial statement within 30 days after the effective date of this code.

SEC. 2. All employees appointed, promoted, or transferred to designated positions shall file initial statements not less than 10 days before assuming their positions, unless an earlier assumption is required by emergency circumstances, in which case the statement shall be filed within 30 days thereafter.

SEC. 3. Annual statements shall be filed during the month of February by all designated employees. Such statements shall cover the period of the preceding calendar year or, in the case of the first annual statement filed under this code, the period since the initial statement was filed under this code.

SEC. 4. A designated employee whose employment with the Legislature terminates shall, within 30 days of his or her termination, file a statement of financial interest disclosing investments, interests in real property, and income during the period between his or her previous statement of financial interest and his or her termination date.

SEC. 5. The initial statement filed by a designated employee pursuant to this code shall disclose any reportable investments and interests in real property held at the time of filing.

SEC. 6. Each designated employee required to file a statement under this code shall file the original and one copy as follows:

(a) An employee of the Senate shall file with the Senate Rules Committee.

(b) An employee of the Assembly shall file with the Assembly Rules Committee.

(c) An employee of the Joint Legislative Audit Committee or the

Joint Legislative Budget Committee shall file with his or her respective committee. An employee of any other joint committee shall file with the Joint Rules Committee.

ARTICLE VI
DISQUALIFICATION

SECTION 1. Designated employees must disqualify themselves from making or participating in the making of any decisions in which they have a reportable financial interest,* when it is reasonably foreseeable that such interest may be materially affected in a manner distinguishable from its effect upon the public generally by the decision. No designated employee shall be required to disqualify himself with respect to any matter which could not be legally acted upon or decided without his participation.

* Except sources of gifts of less than $250.

ARTICLE VII
MANNER OF DISQUALIFICATION

If a designated employee is given an assignment in which he or she may have a financial interest, and the assignment involves the making or participation in the making of a governmental decision, the employee shall refrain from acting upon the matter and shall execute in triplicate a disqualification statement in the form of a memorandum stating the nature of the employee's financial interest and the reason the assignment involves the making or participation in the making of a governmental decision which will materially financially affect that interest. The original and a copy shall be given to the committee with which the employee is required to file a report pursuant to this code and a copy shall be retained by the employee. The committee receiving the statement shall evaluate the disqualification statement and if it concludes the employee should be disqualified from participation in the matter, it shall immediately cause the matter to be reassigned to another employee. If the appropriate committee concludes that the employee is not disqualified from acting, the employee shall be notified in writing of the decision and may resume work on the assignment.

ARTICLE VIII
DEFINITIONS

(1) Business entity

"Business entity" means any organization or enterprise operated for profit, including, but not limited to, a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

(2) Closing date

"Closing date" means the date through which any report or statement filed under this code is required to be complete.

(3) Designated employee

"Designated employee" means any officer, employee or consultant of the California Legislature whose position with the Legislature is designated in this Conflict of Interest Code because the holder of the position is involved in the decisionmaking process at any level where the decision could foreseeably have a material financial effect, distinguishable from its effect on the public generally, on any financial interest reportable by such person under this code. No employee whose duties are solely clerical, secretarial or manual shall be deemed a designated employee.

(4) Filer

"Filer" means the person filing or required to file any statement or report under this code.

(5) Gift

"Gift" means any payment to the extent that consideration of equal or greater value is not received. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. The term "gift" does not include informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

(6) Immediate family

"Immediate family" means the spouse and dependent children. Whenever disclosure of investments or interests in real property is required by this title, investment and interests in real property of members of the immediate family shall also be disclosed.

(7) Income

(a) "Income" means, except as provided in subdivision (b), income of any nature from any source within the State of California, including, but not limited to, any salary, wage, advance, payment, dividend, interest, rent, capital gain, return of capital, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness, discount in the price of anything of value unless the discount is available to members of the public without regard to official status, rebate, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10 percent interest or greater.

(b) "Income" does not include:

(i) Campaign contributions required to be reported under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code;

(ii) Salary and reimbursement for expenses or per diem received from a state or local government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic or charitable organization;

(iii) Gifts of informational material, such as books, pamphlets, reports, calendars or periodicals;

(iv) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes;

(v) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered income if the donor is acting as an agent or intermediary for any person not covered by this paragraph;

(vi) Any devise or inheritance;

(vii) Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency; or

(viii) Dividends, interest or any other return on a security which is registered with the Securities and Exchange Commission of the United States government.

(8) Interest in real property

"Interest in real property" includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction if the fair market value of the interest is greater than one thousand dollars ($1,000). Interests in real property of an individual include a pro rata share of interests in real property of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10 percent interest or greater.

(9) Investment

"Investment" means any financial interest in or security issued by a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value exceeds one thousand dollars ($1,000). The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, or any bond or other debt instrument issued by any government or government agency. Investments of an

individual includes a pro rata share of investments of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10 percent interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be as defined by regulation of the Fair Political Practices Commission.

(10) Jurisdiction

"Jurisdiction" means the State of California with respect to the Legislature.

(11) Period covered

"Period covered" by a statement or report required to be filed under this code means, unless a different period is specified, the period beginning with the day after the closing date of the most recent statement or report which has been filed, and ending with the closing date of the statement or report in question. If the person filing the statement or report has not previously filed a statement or report of the same type, the period covered begins on the effective date of this code.

(12) Person

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the conflict of interest code for the employees of the Legislature, as set forth in this resolution, is adopted.

RESOLUTION CHAPTER 126

Senate Concurrent Resolution No. 112—Relative to the late Senator Tom Carrell.

[Filed with Secretary of State September 1, 1976.]

WHEREAS, Tom Carrell, who was first elected to the Assembly in 1959 and served in the Senate from 1966 until his death, while in office, on October 15, 1972, discharged his duties as a legislator with wisdom and foresight; and

WHEREAS, Senator Carrell, who chaired the Committee on Transportation and the Select Committee on Environmental Control, has forever established his pre-eminence in the control of air pollution through his authorship of important legislation in that field, which, among other things, first provided for the control of air pollution on a regional basis; and

WHEREAS, Senator Carrell also distinguished himself through the authorship of legislation pertaining to mass transit, freedom of the press, traffic safety, tax reform, and senior citizens' benefits; and

5112 28 12 480 746

WHEREAS, The Legislature is pleased to learn that the City of San Fernando will dedicate a city park in memory of Senator Carrell; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members recall, on the occasion of the dedication of Tom Carrell Memorial Park, the enormous contributions made by Senator Tom Carrell to the well-being of this state and its citizens, especially those of the City of San Fernando; and be it further

Resolved, That the members commend the City of San Fernando and its citizens for this appropriate expression of civic pride in, and gratitude for, the public service rendered by Senator Tom Carrell; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Mayor and City Council of the City of San Fernando.

RESOLUTION CHAPTER 127

Assembly Concurrent Resolution No. 157—Relative to student health facilities at California State College, San Bernardino.

[Filed with Secretary of State September 1, 1976.]

WHEREAS, The Trustees of the California State University and Colleges have established a student health facilities fee to provide for the acquisition, construction, and improvement of student health facilities; and

WHEREAS, California State College, San Bernardino, requires adequate student health facilities to provide proper medical care to its students; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, pursuant to the requirement of California Education Code Section 23752.4 and the approval of the Public Works Board, approval is hereby given for the construction and improvement of a student health center at California State College, San Bernardino; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Trustees of the California State University and Colleges and to California State College, San Bernardino.

1157 28125 10 752

RESOLUTION CHAPTER 128

Assembly Concurrent Resolution No. 194—Relative to state employee merit awards.

[Filed with Secretary of State September 1, 1976.]

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 M. M. Jane Slowsky, Department of Corrections, for a suggestion that results in annual savings of forty-six thousand four hundred sixty-four dollars ($46,464), by providing a parole summary of commitment data which is a continuing record and eliminates a possibility of error and greatly reduces the need for staff time; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Robert T. Nash, Employment Development Department, for a suggestion which results in annual savings of forty-four thousand seventy dollars ($44,070), by recommending less expensive paper stock, which is MICR encoded instead of punched for warrants and agency trust checks; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to William H. O'Dell, Department of General Services, for a suggestion which results in annual savings of twenty-three thousand nine hundred forty-three dollars ($23,943), by recommending a method for producing the Assembly rollcall on monotype from linotype mats; and

WHEREAS, An award of one thousand dollars ($1,000) has already been shared by Robert J. Balmain, Department of California Highway Patrol, and Donald R. Harper, Department of California Highway Patrol, for a suggestion which results in one-time increased revenue of one hundred eighty-nine thousand seven hundred seventy-eight dollars ($189,778), and annual increased revenue of ninety-four thousand five hundred fifty-two dollars ($94,552), by proposing alternative methods for obtaining proper motor vehicle tax for vehicles classified as "cab and chassis", but which have increased in value as a result of modification; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Merle R. Lear, Department of California Highway Patrol, for a suggestion which results in annual increased revenue of forty-one thousand three hundred thirty dollars ($41,330), by calling attention to the loss of prorate fees on commercial vehicles which are operating only in California but bear license plates which indicate a portion of the license fee is paid to other states; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to C. W. Chamberlin, Department of California Highway Patrol, for a suggestion which results in annual increased revenue of

two hundred seventy-one thousand four hundred fifty-eight dollars ($271,458), by calling attention to leased vehicles owned in California and other states, which were operating in California without compliance with California statutes governing prorate fees; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Lucille Paladini, Department of Motor Vehicles, for a suggestion which results in annual savings of eleven thousand twenty-seven dollars ($11,027), by recommending the use of selectric typewriters to correct faulty drivers licenses instead of a time-consuming and more expensive procedure which utilizes a Correction Camera; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to G. J. Faulkner, Department of Motor Vehicles, for a suggestion which results in annual savings of forty-one thousand one hundred fifteen dollars ($41,115), by recommending a revised drivers license test procedure which waives the required drive test on renewals where the prior license is lost and there is reasonable assurance that the applicant meets renewal requirements and is a safe driver; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Carole Waggoner, Department of Motor Vehicles, for a suggestion which results in annual savings of ten thousand five hundred ten dollars ($10,510), by recommending the elimination of EDP purge cards and buff copies which are produced in the volume of approximately 207,000 annually; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Leslie G. Kubel, Department of Transportation, for a suggestion which results in annual savings of three hundred fifty thousand dollars ($350,000), by recommending a less expensive and more efficient traffic signal controller for street intersection signal lights; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Gerald M. McElroy, Department of Transportation, for a suggestion which results in annual savings of seventeen thousand four hundred twenty dollars ($17,420), by recommending a less expensive and more durable fluorescent tube for use in lighting highway signs; and

WHEREAS, An award of one thousand dollars ($1,000) has already been shared by Eugene Calman, Department of Transportation, and Robert Satterlee, Department of Transportation, for a suggestion which results in annual savings of two hundred seventy-nine thousand two hundred fifty-five dollars ($279,255) in Highway District 11 by devising equipment which automatically secures air samples at programmed intervals thus reducing the man-hours and miles of travel required to personally sample the air at stated intervals; and

WHEREAS, The suggestions of these employees have resulted in one-time and recurring savings and in recurring additional revenue amounting to one million four hundred twenty thousand nine

hundred twenty-two dollars ($1,420,922); 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:

M. M. Jane Slowsky, three thousand six hundred fifty dollars ($3,650)

Robert T. Nash, three thousand four hundred ten dollars ($3,410)

William H. O'Dell, one thousand three hundred ninety-five dollars ($1,395)

Robert J. Balmain, eight thousand nine hundred seventy-two dollars ($8,972)

Donald R. Harper, eight thousand nine hundred seventy-two dollars ($8,972)

Merle R. Lear, three thousand one hundred thirty dollars ($3,130)

C. W. Chamberlin, nine thousand dollars ($9,000)

Lucille Paladini, one hundred dollars ($100)

G. J. Faulkner, three thousand one hundred ten dollars ($3,110)

Carole Waggoner, fifty dollars ($50)

Leslie G. Kubel, thirty-four thousand dollars ($34,000)

Gerald M. McElroy, seven hundred forty dollars ($740)

Eugene Calman, six thousand four hundred eighty dollars ($6,480)

Robert Satterlee, six thousand four hundred eighty dollars ($6,480);

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 129

Assembly Joint Resolution No. 60—Relative to the exchange of public lands.

[Filed with Secretary of State September 1, 1976.]

WHEREAS, The State of California owns approximately 600,000 acres of land which was granted for the benefit of common schools and has an additional entitlement of approximately 100,000 acres of these school lands still to be received; and

WHEREAS, These land resources of the state are generally unmanageable and unproductive because they are scattered widely throughout the state; are enclosed within the boundaries of federal military reservations, national monuments, and national forests;

260 28125 75 765

contain unexploded military ordnance; and remain unsurveyed; and

WHEREAS, These serious and enduring management problems can largely be resolved by timely indemnity selections and land exchanges with the Federal Bureau of Land Management; and

WHEREAS, This selection and exchange of lands is long overdue and would clearly allow the state and federal governments to improve their respective land ownership patterns and develop better land management programs; and

WHEREAS, The citizens of the nation and the state would benefit materially from the more efficient use of these federal and state lands; 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 which would mandate the immediate satisfaction of California's school land entitlement and which would grant this state first priority of classification of national resource lands for this purpose and for the purpose of extensive land exchanges; and be it further

Resolved, That the California State Lands Commission is requested to cooperate fully in the drafting, enactment, and subsequent implementation of this highly desirable legislation; 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, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the Interior, and to the California State Lands Commission.

RESOLUTION CHAPTER 130

Senate Concurrent Resolution No. 62—Relative to jet aircraft noise.

[Filed with Secretary of State September 3, 1976.]

WHEREAS, Jet aircraft, in their present state of development, emit noise which causes annoyance to persons residing in areas adjacent to airports; and

WHEREAS, Technological developments which will result in a lowering of jet aircraft noise are not expected to be of significant effect for a number of years; and

WHEREAS, Hollywood-Burbank Airport in the San Fernando Valley section of Los Angeles is surrounded by residential areas of considerable population density; and

WHEREAS, Hollywood-Burbank Airport is privately owned by the

562 28 12595 769

Lockheed Corporation; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the City of Los Angeles and the Department of Transportation of the State of California, together with any joint powers authority formed for the purpose of operating such airport, are requested to immediately initiate a study of Hollywood-Burbank Airport to determine a priority of runway usage by jet aircraft so as to minimize the effects of aircraft noise upon residents of the surrounding area; and be it further

Resolved, That the Department of Transportation of the State of California is requested in assisting in this study of Hollywood-Burbank Airport to make available therefor noise-monitoring equipment capable of providing readings in decibels at various locations in the east San Fernando Valley; and be it further

Resolved, That the Department of Transportation commence all activities requested by this resolution as soon as funding is available, except that the department is requested not to make any expenditure from the Highway Trust Fund or from the Aeronautics Account in the State Transportation Fund for purposes of this resolution; and be it further

Resolved, That the operator of Hollywood-Burbank Airport and the Federal Aviation Administration are requested to take all possible measures, including but not limited to modification of aircraft and airport facilities, and the assignment of preferential runways for jet aircraft which will result in the least possible exposure of San Fernando Valley residents to jet aircraft noise.

RESOLUTION CHAPTER 131

Senate Concurrent Resolution No. 81—Relative to flammability standards of children's clothing.

[Filed with Secretary of State September 3, 1976.]

WHEREAS, Children's sleepwear is now required to meet federal flammability standards; and

WHEREAS, Children are continuing to be seriously burned by flammable fabrics used in children's garments; and

WHEREAS, Fabrics are available which are flame resistant or can be treated to be flame resistant; and

WHEREAS, The quantity, quality, and economic availability of flame-resistant fabrics and flame-resistant articles of children's clothing are not sufficiently known; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members request the State Fire Marshal to conduct a study of the availability, cost, and effectiveness

581 28 12 615 773

of flame-resistant fabrics suitable for children's clothing and the clothing made from such fabrics; and be it further

Resolved, That the study shall include an evaluation of what is and what is not being done in the field of flame-resistant fabrics and garments, considering the needs and limitations of the textile industry, the apparel manufacturers, the chemical industry, and interested consumer groups; and be it further

Resolved, That the State Fire Marshal shall provide the information for the printing of consumer guidelines, based on the study, on the selection and use, including the care and treatment, of flame-resistant fabrics and garments; and be it further

Resolved, That the Department of Consumer Affairs shall make available, as soon as practical, such consumer guidelines to the public; and be it further

Resolved, That the State Fire Marshal shall report the results of the study to the Legislature on or before December 31, 1976; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the State Fire Marshal and the Director of Consumer Affairs.

RESOLUTION CHAPTER 132

Senate Joint Resolution No. 58—Relative to old-age, survivors, and disability insurance.

[Filed with Secretary of State September 3, 1976.]

WHEREAS, Our older citizens receiving old-age, survivors, and disability insurance may not work and earn more than $2,760 per year, but there is no limit on the amount of retirement or other income they may receive; and

WHEREAS, As a result older citizens without outside income are penalized for preferring to work and earn income in supplementing their social security income by the so-called "earnings limitation"; 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 action as is necessary to repeal the social security "earnings limitation" for those people over the age of 65; 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.

658 28 12640 778

RESOLUTION CHAPTER 133

Senate Joint Resolution No. 59—Relative to the federal motor vehicle fuel excise tax.

[Filed with Secretary of State September 3, 1976.]

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 enact legislation to authorize a reduction in the rate that the federal excise tax is imposed on motor vehicle fuel in California if it would enact legislation (a) to increase its motor vehicle fuel tax rate in an amount equal to the reduction and (b) to use that increase in its tax revenues for projects in accordance with the provisions of California state law and the California Constitution, provided however, that allocation of such revenues to state highway projects shall be made first to state highway projects included in the California Department of Transportation priority list, as of May 1, 1976, (1) to make state highways safer, (2) to make state highway route segments usable, (3) to close gaps of the planned state highway system, or (4) that constitute an integral part of community development or redevelopment projects; 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 134

Senate Joint Resolution No. 61—Relative to nuclear proliferation.

[Filed with Secretary of State September 3, 1976.]

WHEREAS, In a world preoccupied with a myriad of other problems, the transcendent crises of our time, the threat of nuclear war and the annihilation of most of mankind, continue to worsen almost unnoticed; and

WHEREAS, The nuclear arms race between the United States and the Soviet Union continues, for all practical purposes, virtually unchecked, in as much as in the past seven years, the number of deliverable warheads on strategic missiles on both sides has increased nearly fourfold and the so-called "cap" on nuclear weapons, established through the SALT talks, sets a new and higher ceiling on the number of weapons; and

WHEREAS, France and China are major nuclear powers, yet have refused to sign the Treaty on the Non-Proliferation of Nuclear Weapons; and

WHEREAS, Five other countries also sell nuclear materials and knowledge around the world: South Africa, Great Britain, Japan, Canada, and West Germany, and at least three others have the capability of becoming nuclear suppliers: The Netherlands, Italy, and Sweden; and

WHEREAS, It is estimated that there will be power reactors operating in at least 30 countries within the next five years and the so-called nonweapon countries will have enough plutonium in the 1980's to produce 50 atomic bombs a week; and

WHEREAS, A resolution currently before Congress calls for:

(a) A 20% verifiable mutual reduction in the number of strategic nuclear delivery vehicles and the number of strategic missile launchers equipped with multiple independently targetable reentry vehicles;

(b) A comprehensive agreement ending underground nuclear explosions under adequate verification;

(c) A halt to transfer of nuclear fuel, technology, and equipment to any country which has not accepted the International Atomic Energy Safeguards on all its nuclear programs and which has not become a party to the Treaty on the Non-Proliferation of Nuclear Weapons, upon condition that all major nuclear suppliers agree to a similar halt on such transfers;

(d) An agreement providing for the processing of all nuclear fuels, transferred from one country to another, in multinational regional nuclear fuel cycle centers which are protected by the strictest possible safeguards; and

(e) A transfer of weapons grade materials from military to peaceful uses; 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 support all efforts to bring nuclear weapons under control, reduce their numbers, and stop their spread; 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 135

Senate Joint Resolution No. 62—Relative to American citizens in Mexican jails.

[Filed with Secretary of State September 3, 1976.]

WHEREAS, Approximately 590 American citizens are currently incarcerated in jails in Mexico; and

WHEREAS, The Mexican government has formally proposed to the United States government an exchange of American citizens in Mexican jails for Mexican citizens in American jails; and

WHEREAS, Such an exchange of prisoners would not only be a positive approach toward resolving this matter between the United States and Mexico, but would also serve to reaffirm this country's longstanding friendly relations with the Mexican government; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature does hereby request that the President of the United States propose to the President of Mexico the creation of a bilateral commission on the treatment and possible release of American citizens in Mexican jails; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President of the United States.

RESOLUTION CHAPTER 136

Senate Joint Resolution No. 63—Relative to memorializing Congress to amend the Immigration and Nationality Act.

[Filed with Secretary of State September 3, 1976.]

WHEREAS, The United States is a nation of immigrants, deriving its strength from peoples of different backgrounds; and

WHEREAS, This nation adheres to the principles of humanitarianism and family unity; 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 Congress of the United States to amend the Immigration and Nationality Act to provide for the United States Attorney General to adjust the status of any undocumented immigrant to that of a person lawfully admitted for permanent residence if:

(a) Such person makes an application for such adjustment; and

(b) Such person has resided continuously in the United States for at least three years on the date of enactment of such an amendment to federal law; and be it further

Resolved, That the provisions of such amendment should be applicable to the spouse and child of such undocumented immigrant who are present with any such undocumented immigrant in the United States; and be it further

Resolved, That the Congress of the United States also amend the Immigration and Nationality Act to provide for priority consideration for adjustment of legal status to all undocumented persons residing in this country whose children are natural born

663 29190 796

citizens; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to each Senator and Representative from California in the Congress of the United States, and to the Attorney General of the United States.

RESOLUTION CHAPTER 137

Assembly Concurrent Resolution No. 140—Relative to the Cajon Pass.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, The area surrounding the Cajon Pass is one of the most historic in all of the County of San Bernardino, having been associated with significant native American activities, having been associated with early exploratory expeditions into the region and later having become an important route for California immigrants; and

WHEREAS, The San Bernardino County Museum Commission has unanimously recommended nomination of the Cajon Pass Camp area as a historic district, for inclusion in the National Register of Historic Places; and

WHEREAS, The Board of Supervisors of the County of San Bernardino has concurred in this recommendation and has directed the preparation and forwarding of an appropriate application for inclusion of the Cajon Pass Camp area in the National Register of Historic Places; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Historical Resources Commission and the Director of Parks and Recreation are hereby requested to give prompt and favorable consideration to the application for the inclusion of the Cajon Pass area in the National Register of Historic Places; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the members of the State Historical Resources Commission and to the Director of Parks and Recreation.

RESOLUTION CHAPTER 138

Assembly Concurrent Resolution No. 152—Relative to the Commission for Teacher Preparation and Licensing.

[Filed with Secretary of State September 7, 1976.]

1 152 291 130 804

WHEREAS, Ethnic and gender stereotyping continue to permeate every aspect of education with the result that children are completing school with a limited and flawed knowledge both of their cultural heritage and of their own potential and options; and

WHEREAS, An essential element in providing the children of this state with both excellent and equal educational opportunity is the quality of the preparation of their teachers and administrators; and

WHEREAS, A need exists for school administrators, teachers, and counselors to know and apply the state and federal laws, regulations, and guidelines pertaining to ethnic and sexual stereotyping, including Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Chapter 5 (commencing with Section 91) of Division 1 of, and Sections 9001 and 9002 of, the Education Code, in providing an environment which contributes to an excellent and equal educational opportunity of the pupils; and

WHEREAS, The Commission for Teacher Preparation and Licensing has the statutory authority to set minimum requirements for obtaining and renewing both instructional and service credentials pursuant to the Ryan Act; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Commission for Teacher Preparation and Licensing is requested to conduct a study to assess the extent of training and preparation provided to certificated personnel to remedy ethnic and sexual stereotyping and to provide the Legislature with recommended alternatives which more adequately would prepare certificated personnel to meet the needs of pupils in the school environment; and be it further

Resolved, That the commission shall report the results of such study, and make recommendations to remedy such stereotyping to the Joint Legislative Budget Committee by January 3, 1977; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Executive Secretary of the Commission for Teacher Preparation and Licensing.

RESOLUTION CHAPTER 139

Assembly Concurrent Resolution No. 163—Relative to manpower in the state hospitals.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, The State Department of Health experienced a budget deficit in its State Hospital Division of approximately five million dollars; and

WHEREAS, This budget deficit resulted from an error in calculation of the attrition rate of level-of-care staff due to

retirement, death, and resignations, thereby resulting in an overestimation of the savings of budgeted salary amounts at the state hospitals by approximately five million dollars; and

WHEREAS, This error in accurately computing the salary savings resulted in a deficit and subsequent hiring freeze, causing hardship on the part of both the level-of-care staff and clients and patients; and

WHEREAS, Future budgetary errors resulting in deficits are possible due to the lack of accurate attrition estimates for level-of-care staff in our state hospitals; and

WHEREAS, There is a growing concern over the issue of patients' rights, with a possibility of litigation against the State Department of Health to guarantee adequate staffing standards for patient and client care, treatment, and training; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Health, Division of State Hospitals, is requested to develop and report to the Legislature, within 60 days of the adoption of this resolution, the projected staffing levels of each state hospital over the next five years, comparing recruitment and training capacity factors with attrition rates which take into account such factors as the health of the general economy, employee deaths, resignations for various reasons, and retirement; and be it further

Resolved, That, in its report to the Legislature, the State Department of Health, Division of State Hospitals, shall compare the expected level-of-care staffing levels for the next five years at each state hospital with the staffing levels and standards of the Joint Commission on the Accreditation of Hospitals, the PRU-72 staffing recommendations, and those standards implemented in Alabama under the judicial decision in Wyatt vs Stickney; 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 140

Assembly Concurrent Resolution No. 184—Relative to free clinics.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, Problems encountered by free clinics and their relationship to state regulatory agencies tend to differ substantially from other categories of health facilities; and

WHEREAS, The various state departments which administer laws relating to free clinics should be advised of the special concerns and needs of free clinics; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Health, the Department of Benefit Payments, and the Department of Insurance

jointly arrange two or more small informal meetings with representatives of free clinics in order to provide a forum on the following issues as they relate to free clinics:

1. Statutory definition of free clinics
2. Licensing
3. Regulations
4. Medi-Cal claims procedures
5. Third party payments
6. Malpractice insurance
7. Funding possibilities;

and be it further

Resolved, That free clinic representatives shall not be reimbursed for travel expenses; at least one meeting shall be held in the northern part of the state and at least one held in the southern part of the state to permit active participation and to minimize representatives' travel costs; and that the first of such meetings shall be convened by the department within 30 days of the filing of this resolution with the Secretary of State; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the State Department of Health, the Department of Benefit Payments, and the Department of Insurance.

RESOLUTION CHAPTER 141

Assembly Concurrent Resolution No. 198—Relative to school tax revenue bases.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, The current fiscal crisis facing California school districts, the Serrano decision prohibiting "significant disparities in expenditures per pupil among school districts," and the recent extraordinary increases in property tax burdens all indicate that a shift of the tax base for school financing from property taxes to alternative bases should be considered as a reasonable solution to such problems; and

WHEREAS, There is need for a comprehensive study of the feasibility and impact of a tax shift for the purpose of school funding reform, in order that the Legislature will have sufficient information on which to base decisions regarding such a tax shift; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislative Analyst, with the cooperation of the Assembly Office of Research and the Senate Office of Research, is requested to determine the feasibility and fiscal impact upon individuals at various income levels, banks and corporations, and school districts, of shifting the tax base for school

funding revenues from the property tax base to alternative tax bases; and be it further

Resolved, That the Legislative Analyst is requested to report such determination to the Legislature on the date specified by the Joint Rules Committee.

RESOLUTION CHAPTER 142

Assembly Concurrent Resolution No. 206—Relative to postsecondary education for handicapped adults.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, Postsecondary education programs which serve the educational needs of handicapped adults have long been established pursuant to Sections 5746 et. seq. of the Education Code; and

WHEREAS, California school districts and community college districts currently offer postsecondary education programs in approximately 150 sheltered workshops and work activity centers statewide; and

WHEREAS, Section 504 of the 1973 Federal Vocational Rehabilitation Act states that "No otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance;" and

WHEREAS, Postsecondary education programs in sheltered workshops and work activity centers offer to handicapped adults the same opportunities available to nonhandicapped persons to receive basic education and vocational and prevocational training, and to achieve personal competency skills and independent living skills; and

WHEREAS, Department of Rehabilitation statistics show that the 15,000 handicapped persons who obtain permanent employment each year as a result of rehabilitation and training programs save the state eleven million dollars ($11,000,000) each year in welfare, Medi-Cal, and social security costs, while contributing an additional nine million dollars ($9,000,000) each year in state and federal taxes; and

WHEREAS, A Department of Finance audit report, dated January 29, 1976, has proposed that all state funding for educational offerings in sheltered workshops be terminated as of June 30, 1976; and

WHEREAS, Such termination may result in dire consequences both for handicapped adults as well as increasing costs to the state of providing alternative services, assistance, and care to such persons; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate

thereof concurring, That the Legislature, recognizing legal, fiscal, and humanitarian reasons for ensuring postsecondary educational opportunities to handicapped adults through sheltered workshops and work activity centers, reaffirms its intent to provide adequate educational and vocational training opportunities for such handicapped persons and requests the Department of Finance to maintain state funding of the costs of instruction and instructionally related administrative services for handicapped adults in such workshops and centers pending a thorough review of sheltered workshop and work activity center programs, and of the appropriate levels and methods of support to be provided for such programs; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit a copy of this resolution to the Department of Finance.

RESOLUTION CHAPTER 143

Assembly Concurrent Resolution No. 208—Relative to the valuation of securities held by state retirement systems.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, Present law permits the respective boards of the Public Employees' Retirement System and the State Teachers' Retirement System to adjust the book value of certain securities purchased in replacement of securities sold at a profit, but is silent with respect to adjustment if losses on sales are involved; and

WHEREAS, Senate Bill No. 388 of the 1975–1976 Regular Session would permit the boards to use a deferral and amortization method in accounting for both gains and losses realized on fixed-income investments under conditions provided therein; and

WHEREAS, The concept which would be permitted by SB 388 has been explored in depth over many years by individual public retirement systems; and

WHEREAS, The national organizations to which such systems, including the California systems, belong, have concurred in the concept; and

WHEREAS, The accounting industry has not taken a position, despite years of urging by the public systems; and

WHEREAS, From time to time the California systems request bids from the accounting industry to perform the audit services required by law; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Board of Administration of the Public Employees' Retirement System and the Teachers' Retirement Board thoroughly examine the merits of the procedures which would be permitted by SB 388, as it relates to bond investments, in order to

determine that the proposed method is either advantageous and desirable to the consistent interpretation of the financial operations and position of the systems or is disadvantageous and undesirable; and be it further

Resolved, That the respective boards report such determinations to the Legislature on the date specified by the Rules Committee; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the executive officer of the Public Employees' Retirement System and the chief executive officer of the State Teachers' Retirement System.

RESOLUTION CHAPTER 144

Assembly Concurrent Resolution No. 216—Relative to the Commission on Teacher Preparation and Licensing.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, The Commission on Teacher Preparation and Licensing is responsible for licensing individuals who intend to teach in California public schools; and

WHEREAS, Chapter 1020 of the Statutes of 1973 authorized the establishment of two new teaching credentials in the fields of history and government; and

WHEREAS, The Commission on Teacher Preparation and Licensing has included the subject matters of both history and government within the broader category of social sciences, thereby permitting an individual to teach history and government with either a history or government credential or with a social science credential; and

WHEREAS, It is alleged that the proposed scope and content statement for a social science credential requires neither training nor competence in the principles and concepts of either American, European, or Third World history, and that required knowledge of the principles and procedures of American government is minimal; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Commission on Teacher Preparation and Licensing is hereby requested to remove history and government from those subjects included in the social science single-subject credential; or as an alternative, amend the scope and content statement for the social sciences to include identifiable concepts and data drawn from history and American government as to approximate the present balance among history, government, and the other social sciences in the current instructional load of the secondary schools of California; and be it further

Resolved, That the Commission on Teacher Preparation and Licensing submit a report detailing its plans with regard to such credentials not later than the fifth legislative day of the 1977–78 Regular Session of the Legislature.

RESOLUTION CHAPTER 145

Assembly Concurrent Resolution No. 222—Relative to the visually handicapped.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, Chapter 1236, Statutes of 1971, authorized the Director of the Department of Rehabilitation to declare any real or personal property of the California Industries for the Blind Program as surplus property and authorized the Director of the Department of General Services to transfer any such property in trust to a nonprofit corporation which operates manufacturing centers, salesrooms, and opportunity centers providing employment for blind and other handicapped persons; and

WHEREAS, The Director of the Department of General Services and California Industries for the Blind, Inc. (CIB, Inc.) entered into an "Agreement for Transfer in Trust," under which the state agreed to transfer such property to CIB, Inc. on the express condition that it be utilized to "effect the employment of blind and other handicapped persons"; and

WHEREAS, CIB, Inc., has experienced severe financial difficulties since its inception and, for the nine-month period ending March 31, 1976, had an operating loss in excess of $455,000; and

WHEREAS, CIB, Inc., despite the trust agreement, has failed to employ a significant number of blind individuals; and

WHEREAS, CIB, Inc.'s work force as of May 21, 1976, consisted of only 74 blind employees, which represented only 49 percent of CIB, Inc.'s total work force; and

WHEREAS, The average hourly wage for CIB, Inc.'s blind employees is only $2.64, and 29 out of the 74 blind employees earn below $2.30 per hour; and

WHEREAS, The majority of CIB, Inc.'s blind work force is engaged in the manufacture of goods such as mops, brooms, and seatbelts, which require considerable manual dexterity; and

WHEREAS, It appears that many CIB, Inc. employees are being underemployed and could potentially be trained to do work more compatible with their handicap and at the same time earn a decent living wage; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Rehabilitation undertake a study of alternatives to the employment of blind persons

in nonprofit manufacturing centers such as those operated by CIB, Inc., including the feasibility of (a) utilizing these manufacturing centers as transitional workshops for the training of blind individuals or (b) converting the assets of CIB, Inc., for loans to help blind employees in business opportunity programs; and be it further

Resolved, That the Department of Rehabilitation develop a comprehensive catalog of occupational skills which can be performed effectively and efficiently by blind persons at wages and salaries comparable to those paid to sighted persons doing similar work in the private sector; and be it further

Resolved, That the Department of Rehabilitation transmit its findings and recommendations on alternatives to CIB, Inc., and the blind occupational skills catalog to the Legislature by January 1, 1977; and be it further

Resolved, That a copy of this resolution be transmitted to the Director of the Department of Rehabilitation.

RESOLUTION CHAPTER 146

Assembly Concurrent Resolution No. 229—Relative to the creation of the Joint Committee to Oversee the Agricultural Labor Relations Board.

[Filed with Secretary of State September 7, 1976.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, As follows:

1. The Joint Committee to Oversee the Agricultural Labor Relations Board is hereby created and authorized and directed to ascertain, study and analyze all facts relating to the Agricultural Labor Relations Board, including, but not limited to, the following areas:

(1) Modification of current regulations as required to deal with problems encountered during the first six months of administration, including (a) modification or clarification of the access rule to accommodate special situations such as, but not limited to, those exisiting in nurseries and poultry farms; (b) modification or clarification of the access rule with respect to lunchtime access; (c) modification or clarification of the names and addresses rule in order to effectuate the policies of the act.

(2) Development of a code of conduct applicable to agents and employees of the ALRB relating to conflicts of interest and to the avoidance of bias or the appearance of bias;

(3) Development of formal procedures to deal with charges of conflict of interest or bias on the part of agents and employees of the ALRB;

(4) Development of more efficient procedures for resolving

1229 291345 847

postelection objections to reduce the time and cost of litigation in order to effectuate policies of the act;

(5) Development of more efficient procedures for resolving unfair labor practice charges to reduce the time and cost of litigation in order to effectuate the policies of the act;

(6) Development of a staff of qualified and independent administrative law officers within the Office of Administrative Hearings;

(7) Development of procedures for providing technical information and assistance to the parties with respect to ALRB regulations and procedures affecting small farms, and with respect to the procedural posture of pending cases, including the establishment of a position in the ALRB Executive Secretary's office for that purpose;

(8) The development of a general advisory board comprised of balanced representation of agricultural employers and labor organizations to advise the ALRB on an ongoing basis with respect to its operating procedures and with respect to legislative proposals;

(9) The development of a subcommittee of the general advisory board, to advise the ALRB with respect to the special labor relations problems of small farmers and their workers;

(10) Development of methods for increasing awareness and understanding of the provisions of the Agricultural Labor Relations Act by all parties affected, including development of bilingual materials to advise all persons of their rights;

(11) Development of liaison between the ALRB and related state and federal agencies, including the State Department of Food and Agriculture, State Department of Industrial Relations, and the National Labor Relations Board, to provide coordination on matters of overlapping interest or jurisdiction;

(12) Development of workload and staffing standards to assist in the budgetary process;

(13) Development of office facilities in places more accessible to parties affected by the act;

(14) Development of training programs in conjunction with the State Personnel Board for board personnel.

2. The committee shall report its findings and recommendations for any appropriate legislation to the Legislature.

3. 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.

4. The committee is authorized to act during this session of the Legislature, including any recess, and all sessions thereafter.

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, which provisions are incorporated herein and made applicable to this committee and its members.

6. The committee has the following additional powers and duties:

(a) 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.

(b) 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.

(c) To report its findings and recommendations to the Legislature and to the people at any time, the committee deems appropriate.

(d) 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.

7. The Joint Rules Committee may make such money available from the Contingent Funds of the Assembly and Senate as it deems necessary for the expenses of the committee and its members. 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 147

Assembly Concurrent Resolution No. 239—Relative to memorializing the Honorable Eugene G. Nisbet.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, It was with the most profound sorrow that word was received of the passing of a former California State legislator and central figure in the formulation of the California Water Plan, the Honorable Eugene G. Nisbet, on July 31, 1976, at the age of 79; and

WHEREAS, Mr. Nisbet, who was elected to the California State Assembly in 1954 from the 72nd Assembly District, was reelected to three more two-year terms before giving up the seat to run for the Senate; and as a member of the Assembly Water Committee, he took an active part in the study and planning that went into the California Water Plan; and

WHEREAS, A quiet, reserved man, who was sometimes known as "Gentleman Gene," he was elected to the California State Senate in 1962, wherein he served a single four-year term; and

WHEREAS, A native of Virginia, Illinois, Mr. Nisbet had been a resident of Upland since 1907, attended Chaffey Union High School

and the University of Southern California, and graduated from Stanford University; and prior to seeking state office, served for 15 years on the Upland City Council, including 12 years as mayor; and

WHEREAS, He served his country with honor and distinction in the United States Army during World War I, and he was an active member of the American Legion and the First United Presbyterian Church; and

WHEREAS, Mr. Nisbet is survived by a sister, Clara Lou Nisbet of Upland; a niece, Mrs. John Hartman of El Cajon; and a nephew, John N. Nisbet, Jr., of San Marino; 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 the Honorable Eugene G. Nisbet, and by this resolution, memorialize his illustrious record of public service on behalf of the citizens of Upland and the State of California, as well as the love and devotion he displayed on behalf of his family and friends; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Clara Lou Nisbet, Mrs. John Hartman, and Mr. John N. Nisbet, Jr.

RESOLUTION CHAPTER 148

Assembly Concurrent Resolution No. 240—Relative to solar energy.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, The Federal Energy Research and Development Administration will soon cause to be built the nation's first solar electric powerplant to be integrated into a utility network; and

WHEREAS, Several states are competing for the site for this $100 million pilot plant; and

WHEREAS, California has abundant solar resources, large electricity load centers, strong technical and industrial communities, and public and private sector leadership committed to the rapid development of solar energy across the state; and

WHEREAS, The knowledge gained from this plant will help California to speed the incorporation of this form of electricity generation into the state's mix of energy sources; and

WHEREAS, The State Energy Resources Conservation and Development Commission considers the development of solar energy to be one of its principal objectives; and

WHEREAS, This agency is participating in a joint proposal with Southern California Edison Company and the Los Angeles Department of Water and Power to the Federal Energy Research and Development Administration to site this plant in Daggett,

California; 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 10MWe Central Receiver Solar Thermal Pilot Plant in 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 149

Senate Concurrent Resolution No. 84—Relative to flexible-time employment.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, The offering of flexible-time employment to state employees will help lessen traffic congestion during rush hours, provide free time for employee leisure and personal business, and increase morale and productivity among state employees; and

WHEREAS, The Legislature during its 1975–76 Regular Session passed AB 914 which would have enacted the Flexible-Time Employment Act to provide a plan for implementing flexible-time employment for state employees; and

WHEREAS, The Governor vetoed AB 914 on the basis that "these objectives can more effectively be achieved under existing law"; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature respectfully memorializes the Governor to implement under existing law the objectives expressed in AB 914; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to Governor Edmund G. Brown Jr.

RESOLUTION CHAPTER 150

Senate Concurrent Resolution No. 111—Relative to emergency alarm devices for schoolbuses.

[Filed with Secretary of State September 7, 1976.]

WHEREAS, The recent abduction of 26 schoolchildren and their driver in rural Madera County demonstrates the particular vulnerability of schoolbuses transporting students in rural areas to

such crimes; and

WHEREAS, A delay of more than three hours elapsed before this unprecedented mass kidnapping was detected; and

WHEREAS, This delay in detection allowed the perpetrators of the crime to successfully elude law enforcement agencies and move the children and their driver many miles from the scene of the crime; and

WHEREAS, In spite of massive efforts by several law enforcement agencies to locate the missing children, they were unable to determine the direction or the distance in which the children had been taken; and

WHEREAS, The aforementioned facts placed those children in potentially life-threatening jeopardy; and

WHEREAS, There is presently no method by which such a crime in a rural setting can be quickly detected; and

WHEREAS, An emergency alarm device could alert the public and law enforcement personnel to schoolbuses in emergency situations; and

WHEREAS, With such timely notice, crimes of the sort perpetrated in Madera County could be made difficult or impossible due to the shortened response time of law enforcement agencies; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature direct a task force, coordinated by the California Highway Patrol, consisting of the members of the California Highway Patrol, the California Department of Justice, and the California Department of Education, working cooperatively with public and private agencies, and, in particular, with all concerned school districts and law enforcement agencies, to study the feasibility of installing such emergency signaling devices in appropriate schoolbuses; and be it further

Resolved, That this task force specifically investigate both sonic and electronic devices, which could be recognized by the public at large as being a schoolbus distress signal; and be it further

Resolved, That said task force report its findings and recommendations to the Legislature no later than January 30, 1977; and be it further

Resolved, That the Secretary of the Senate transmits copies of this resolution to Glendon Craig, Commissioner of the Department of California Highway Patrol; to Evelle J. Younger, Attorney General and head of the Department of Justice; and to Wilson Riles, Superintendent of Public Instruction and Director of the Department of Education.

5111 291470 872

RESOLUTION CHAPTER 151

Assembly Concurrent Resolution No. 171—Relative to higher education.

[Filed with Secretary of State September 10, 1976.]

WHEREAS, During the 1950's and 1960's many public employees, particularly in the field of education, were discharged or denied employment solely for conscientiously refusing to sign the so-called Levering oath contained in Section 3 of Article XX of the State Constitution; and

WHEREAS, In the 1967 case of Vogel v. County of Los Angeles, 68 Cal. 2d 18, the California Supreme Court held the Levering oath to be invalid as an unconstitutional violation of the first amendment of the Constitution of the United States, making such discharge or denial of employment unjustifiable and wrong; and

WHEREAS, In the 1971 case of Monroe v. Trustees of the California State Colleges, 6 Cal. 3d 399, the California Supreme Court held that an employee who was discharged by the Trustees of the California State Colleges solely for refusal to sign the Levering oath was entitled to reinstatement; and

WHEREAS, In the years since the Monroe case, there has been little if any reinstatement by the Trustees of the California State University and Colleges of persons wrongfully discharged for refusal to take the Levering oath; 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 report to the Legislature the names of all persons so discharged and their current employment situation, and whether they desire to be reinstated; and be it further

Resolved, That the trustees are requested to reinstate any persons so discharged, and who desire reinstatement; and be it further

Resolved, That a copy of this resolution be transmitted to the Trustees of the California State University and Colleges.

RESOLUTION CHAPTER 152

Assembly Concurrent Resolution No. 176—Relative to State Highway Route 30.

[Filed with Secretary of State September 10, 1976.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to prepare plans and specifications for the construction of the portion of Foothill Freeway comprising State Highway Route 30 from Route 210 near the City of San Dimas to

Route 194 near the City of San Bernardino; 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 153

Assembly Concurrent Resolution No. 228—Relative to the Luther Burbank Memorial Highway.

[Filed with Secretary of State September 10, 1976.]

WHEREAS, By the enactment of Resolution Chapter No. 11 of the Statutes of 1940 (First Extraordinary Session), the Legislature recognized the achievements of Luther Burbank by naming the Santa Rosa-Sebastopol Highway (formerly State Highway Route 51, now State Highway Route 12) as the "Luther Burbank Memorial Highway" in his memory and by requesting in such resolution that suitable historical markers be installed and maintained adjacent to the highway; and

WHEREAS, The Santa Rosa-Sebastopol Highway was closely associated with the life of Luther Burbank and served as the pathway which took him to and from his work; and

WHEREAS, Luther Burbank, the great naturalist whose lifework vastly enriched the welfare of mankind, was a resident of the Santa Rosa Valley for more than 50 years; and

WHEREAS, The importance of Luther Burbank to the study of plant genetics and the corresponding benefit to the world in increased food supply cannot be overemphasized; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members request the Department of Transportation to proceed promptly to install appropriate signs along State Highway Route 12 between Santa Rosa and Sebastopol designating that route as "The Luther Burbank Memorial Highway" in memory of a great man who performed his lifework in the Santa Rosa Valley; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Department of Transportation.

RESOLUTION CHAPTER 154

Assembly Concurrent Resolution No. 214—Relative to state highways.

[Filed with Secretary of State September 10, 1976.]

1214 291550 888

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Highway Commission is hereby requested to budget for, and the Department of Transportation is hereby requested to commence with, the planning and design for the widening of Route 92 from Route 1 near Half Moon Bay to Route 280 so that construction of the widening of that portion of Route 92 can commence as soon as funds are available for such construction; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Highway Commission and the Department of Transportation.

RESOLUTION CHAPTER 155

Assembly Concurrent Resolution No. 230—Relative to a study on mobilehome park services.

[Filed with Secretary of State September 10, 1976.]

WHEREAS, California's mobilehome parks provide for greater utilization of land in urban areas through greater density of dwelling units; and

WHEREAS, The residents of California's mobilehome parks, like all other citizens, are affected by the increasing costs of governmental services; and

WHEREAS, A study by the City of Sacramento indicates that approximately one-third less effort is involved collecting refuse cans in mobilehome parks than the comparable can collection at family residences; and

WHEREAS, The City of Sacramento has reduced by 33 percent the cost per month per can for collection of refuse in mobilehome parks; and

WHEREAS, A study for the Santa Cruz County Sanitation District showed that water consumption by residents of mobilehome parks is 40 percent to 60 percent of the amount consumed by a similar number of conventional single-family dwelling units; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Legislative Audit Committee direct the Office of the Auditor General to study the costs of providing water, garbage collection, and sewage disposal services to California's mobilehome park residents and the actual charges made or approved therefor by cities or counties or special districts, and that such report be made to the Legislature before March 31, 1977.

RESOLUTION CHAPTER 156

Assembly Concurrent Resolution No. 202—Relative to the State Personnel Board.

[Filed with Secretary of State September 10, 1976.]

WHEREAS, Existing State Personnel Board specifications contain information on "typical tasks," that do not completely reflect the demands placed upon members of the California Highway Patrol; and

WHEREAS, The physical and emotional demands placed upon members of the California Highway Patrol, especially those on road patrol, which is normal full duty for traffic officers, and a large part of a sergeant's full duty, are not evident on the existing specification sheets; and

WHEREAS, As an improved standardized work performance evaluation tool, the California Highway Patrol has developed, and is in the final process of validating, "critical tasks" for the various patrol member classifications; and

WHEREAS, These critical tasks reflect physical and emotional demands that are over and above the "typical tasks" which are presently shown on the State Personnel Board specification sheet; and

WHEREAS, The risk of injury faced by members of the California Highway Patrol is high, from 1960 through 1975, 20.1% of the law enforcement officers in California killed in the line of duty were members of the California Highway Patrol, yet the California Highway Patrol comprised only 13.1% of the total number of officers; and

WHEREAS, The use of the existing State Personnel Board specification sheet minimizes the physical and emotional demands associated with normal full duty, and this results in incomplete medical conclusion on work limitations and in turn, to improper administrative decisions based on that medical information; and

WHEREAS, Medical and administrative decisions should be based upon the criteria utilized in evaluating performance; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Public Employees' Retirement System, the State Personnel Board, and the Department of the California Highway Patrol evaluate methods for establishing criteria to be used in the determination of disability retirement, appeals of medical termination, and requests for reinstatement of a member of the California Highway Patrol; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Personnel Board, the Department of the California Highway Patrol, and the Public Employees' Retirement System.

1202 291600 898

RESOLUTION CHAPTER 157

Assembly Concurrent Resolution No. 175—Relative to the State Personnel Board.

[Filed with Secretary of State September 13, 1976.]

WHEREAS, All California citizens and residents are entitled to equal employment opportunities under law; and

WHEREAS, Substantial numbers of non-English-speaking citizens and residents are subject to contact with state and local agencies whose public contact persons do not speak the language of the citizen; and

WHEREAS, These non-English-speaking citizens and residents frequently experience serious communication problems because of their inability to communicate in English; and

WHEREAS, These communication difficulties frequently jeopardize equal access to information and services which are guaranteed to all citizens and residents alike; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That each state agency having local offices shall annually conduct a survey of each such local office to determine all of the following:

(a) The number of public contact positions, as defined in Section 7297 of the Government Code, in each such office;

(b) The number of bilingual employees in public contact positions and the language other than English spoken by each such employee; and

(c) The number and percentage of the general population of each limited-English-speaking group served by each such local office; and be it further

Resolved, That the results of the survey by each state agency shall be reported to the State Personnel Board in a manner as prescribed by the board; and be it further

Resolved, That the State Personnel Board shall annually report to the Legislature the results of the surveys conducted pursuant to this resolution, which results shall be public records; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Personnel Board.

RESOLUTION CHAPTER 158

Assembly Concurrent Resolution No. 201—Relative to public higher education.

[Filed with Secretary of State September 13, 1976.]

WHEREAS, The Legislature recognized in enacting Resolution Chapter 209 of the Statutes of 1974 that certain groups, as characterized by sex, ethnic, or economic background, are underrepresented in our institutions of public higher education; and

WHEREAS, The Legislature recognizes that handicapped persons are also underrepresented in our institutions of public higher education and should be treated in the same manner as other underrepresented groups; and

WHEREAS, It is the intent of the Legislature that such underrepresentation be addressed and overcome by 1980; and

WHEREAS, It is the intent of the Legislature that this underrepresentation be eliminated by providing necessary auxiliary services and procedures to ensure entrance and retention rather than by rejecting any qualified student; and

WHEREAS, It is the intent of the Legislature to commit the resources to implement this policy; and

WHEREAS, As used in this measure, "handicapped students" shall mean persons enrolled in a postsecondary program who cannot benefit from the regular educational program provided without special services or programs, because of a physical, communication, or learning disability. Such disabilities shall be defined as follows:

(a) "Physical disability" means a disability attributable to a vision, mobility, orthopedic, or other health impairment.

(b) "Communication disability" means a disability attributable to a speech or hearing impairment.

(c) "Learning disability" means a disability attributable to a neurological, biochemical, or developmental impairment; the learning impairment shall be of a degree that is measurably responsive to specific educational services or programs; and

WHEREAS, It is the intent of the Legislature that institutions of public higher education shall consider the following methods for fulfilling this policy:

(a) Affirmative efforts to search out and contact qualified handicapped students.

(b) Experimentation to discover alternate means of evaluating the student potential of handicapped students.

(c) Augmented handicapped student financial assistance programs.

(d) Improved counseling for handicapped students; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That 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 are hereby requested to prepare a plan that will provide for addressing and overcoming, by 1980, the underrepresentation of handicapped students in the makeup of the student bodies of institutions of public higher education as compared to the general proportion of such students in recent California high school graduation classes, and to

submit such plan to the California Postsecondary Education Commission on or before July 1, 1977. The California Postsecondary Education Commission is requested to integrate and transmit the plans to the Legislature with its comments by the first legislative day of 1978; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Regents of the University of California, the Trustees of the California State University and Colleges, the Board of Governors of the California Community Colleges, and the California Postsecondary Education Commission.

RESOLUTION CHAPTER 159

Assembly Concurrent Resolution No. 221—Relative to state employee salaries.

[Filed with Secretary of State September 13, 1976.]

WHEREAS, Section 18850.3 of the Government Code directs the State Personnel Board to annually file a report with the Governor and the Legislature on matters under its jurisdiction pertaining to and affecting the salaries, wages, and other conditions of work relating to civil service personnel; and

WHEREAS, More than 10 years have passed since the State Personnel Board last reported to the Governor and Legislature concerning adoption of adequate provisions that recognize long-service employees by granting a level of cash compensation above the maximum salary range for each class of position; and

WHEREAS, Recent surveys indicate that many private firms recognize the long service of employees with some form of incentive cash compensation or award; and

WHEREAS, The federal government and several large local government jurisdictions in California, including Los Angeles County, also provide formal compensation systems that give special recognition to long-service employees; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recommends the establishment of a tangible incentive program available to all state employees who have achieved the maximum of their salary range; and be it further

Resolved, That such incentive premium shall be a form of recognition of long service and effective performance that will in all respects accommodate the recognized system of merit established by the Constitution of the State of California; and be it further

Resolved, That the State Personnel Board report to the Legislature on alternative methods for the implementation of such a program by July 1, 1977; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Personnel Board.

RESOLUTION CHAPTER 160

Assembly Concurrent Resolution No. 170—Relative to a study of the law relating to tort liability.

[Filed with Secretary of State September 13, 1976.]

WHEREAS, The Legislature finds all of the following:

(1) That physicians, hospitals, and other health care providers have extreme difficulty in procuring liability insurance covering negligent acts occurring within the scope of their method of operation.

(2) That cities and other entities and organizations of local government are experiencing difficulty in locating markets which provide liability insurance for willful and negligent acts of themselves and their employees in their official capacities, whether governmental or proprietary.

(3) That manufacturers and others within the products distribution system are experiencing massive price increases for liability insurance covering defects in, and uses of, goods manufactured for personal and business consumption.

(4) That lawyers and other professionals are experiencing substantial price increases for liability insurance covering negligent acts occurring within the scope of their authorized operations.

(5) That it is alleged that in other jurisdictions accountants, architects and others dealing with substantial business enterprises are experiencing increasing difficulty in locating markets for such insurance.

(6) That the populace in general is experiencing substantial price increases for liability insurance covering the negligent operation of motor vehicles.

(7) That some of the victims of incapacitating physical injuries are not always compensated by necessary and adequate damages.

(8) That it appears that, in connection with all such liability insurance, a pattern is emerging which commences with steadily increasing insurance prices and culminates in the virtual unavailability of the affected insurance coverages.

(9) That the law of liability had its genesis some 400 years past, has continued to develop upon essentially the same base of individual responsibility, has attempted to adapt itself to the technological progress and the mechanization of society, and has evolved a system of rules likewise as applicable to the individual as the large, complex and legally recognizable but artificial entities utilized by society to minister to the needs and desires of the citizen.

(10) That it is now apparent that it is essential that a comprehensive study and evaluation of the law of liability, whether founded in negligence, strict liability, willfulness, or other similar concepts, be conducted to determine its continued efficacy as a loss-allocating and loss-compensating system, with a view toward the doing of substantial justice to all parties directly affected thereby and the fiscal stability and efficiency thereof; and

WHEREAS, The California Law Revision Commission has not previously been authorized to study the topic of tort liability and related matters; and

WHEREAS, There is a need for a comprehensive study of this topic; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Legislative Committee on Tort Liability is hereby created with the following composition, powers, and duties:

(1) The joint 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. Five members of the committee shall be members who are not lawyers. The Joint Committee on Rules shall designate the chairman of the committee. The members shall serve at the pleasure of the appointing power and vacancies shall be filled by the appointing power.

(2) The joint committee shall make a study to determine the need for revision of the law relating to tort liability, including the rules governing liability for, and the amount of compensation or damages to be paid on account of, injury to, or death of, persons or damage to, or destruction of, property, the manner and method of determination and payment thereof, and related matters. The study may include a study of liability arising from defective products, whether the liability is based upon contract or tort, governmental liability, malpractice liability, third party liability arising from the working conditions of industrial employees, and liability for vehicle accidents. It is not intended that such joint committee shall concern itself with such matters as the law of libel, business torts, privacy invasion, or like matters unrelated to the consequences of personal injury-producing activities of society.

(3) The study shall include all of the following:

(a) An evaluation of the viability of individual responsibility as a basis for allocating the risk of, compensating the victims of, and designating the financing of losses of the injured victims of, injury-producing activities of California society.

(b) An evaluation of other alternative bases for allocating such risks, compensating such victims, and designating such financing.

(c) A critical examination of the rules of the law of liability whether procedural, substantive, or evidentiary, in light of their propensity to achieve the following objectives:

(i) Substantial justice to all parties individually involved in the

liability-fixing mechanism.

(ii) Cost-minimizing systems for allocating risk and financing losses.

(iii) Necessary and adequate, but not excessive or speculative, compensation to victims.

(iv) Relative certainty in establishment of liability and consequent compensation.

(v) Critical evaluation of alternative approaches to accomplish the objectives of substantial justice, cost of minimizing risk-allocating and loss-financing systems, adequate compensation and certainty in predicting the fact and amount of loss, including an evaluation of the awarding of punitive damages, exemplary damages, or other penalties in addition to compensation for actual provable loss.

(vi) Recommendations for an appropriate basis for a system of risk allocation, loss financing, and a victim compensation system to relieve and cure the effects of injury-producing activities of society.

(vii) Recommendations for the proper implementation of such appropriate basis, together with language for specific statutory enactment thereof.

(viii) An actuarial and financial analysis of such recommended system, including an analysis of the long- and short-term anticipated performance thereof and the anticipated comparison of and improvement over the existing mechanism.

(ix) An evaluation of whether insurance premium increases have been justified.

(x) Other recommendations, analyses, and conclusions that the joint committee deems relevant to its charge hereunder.

(4) 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 Assembly and Senate as they are adopted and amended from time to time at this session, which provisions are incorporated herein and made applicable to the committee and its members.

(5) (a) The joint committee shall publish a comprehensive background study relating to tort liability. The background study shall include an analysis of the major policy issues relevant to revision of the law relating to tort liability, with a discussion of the legal and practical considerations relevant to the resolution of those policy issues. The background study may also contain such economic and statistical data as is considered relevant to the matters discussed in the study.

(b) The Joint Legislative Committee on Tort Liability shall hold hearings on the revision of the law relating to tort liability.

(c) The joint committee shall submit a report to the Governor and the Legislature. The report shall include an analysis of the major policy issues relevant to revision of the law relating to tort liability, with a discussion of the legal and practical considerations relevant to the resolution of those policy issues. The report shall contain the joint committee's recommendations with respect to those issues and

relating to revision of the law relating to tort liability. To the extent the joint committee considers it to be feasible, the report shall include the full text or a summary of comments and recommendations submitted by various interested organizations with respect to the joint committee's recommendations.

(d) Nothing in this foregoing paragraph is intended to preclude the joint committee from submitting recommendations on specific aspects of the subject of tort liability to the Governor and Legislature at any time prior to the completion of the comprehensive study if the joint committee concludes that there is an urgent need for legislative action with respect to the specific recommendation submitted. In preparing such specific recommendations, the joint committee may solicit the views of all interested persons and organizations, including any legislative committees concerned with the subject matter of the recommendation.

(6) The Joint Legislative Committee on Tort Liability may establish one or more advisory committees to provide advice and input to the joint committee on the tort liability study. Advisory committees may be established on specific aspects of the subject matter of tort liability. Advisory committees may be established to represent each of the following groups or interests: liability insurance companies; licensed health facilities; the medical profession; consumers; health care insurers; manufacturers and other businesses; state and local governmental entities; judges; trial lawyers; worker compensation attorneys; and the State Bar of California. Members of advisory committees shall serve at the pleasure of the joint committee.

The joint committee shall designate a chairperson for each advisory committee. In making such designation, the joint committee shall give consideration to the persons suggested by the advisory committee.

Members of the advisory committees shall receive no compensation nor reimbursement for travel or other expenses, except as otherwise provided. Travel expenses may be paid for travel approved in advance by the joint committee through its chairman, at a rate comparable to that paid to state employees, for chairpersons attending joint committee meetings. Claims for such travel expenses shall be paid only if approved by the chairman of the joint committee and the Joint Rules Committee.

The chairperson of each advisory committee shall, to the extent such chairperson finds it convenient to do so, upon the request of the joint committee, attend each meeting of the joint committee when the tort liability study is under consideration.

(7) Every person authorized to transact insurance in this state or providing health care services in this state is requested to cooperate with the joint committee by providing, or making available the opportunity to obtain, information reasonably related to the study authorized by this act. Unless such person otherwise agrees, such information shall be made available only on a confidential basis to

expert consultants retained by the joint committee.

(8) The Joint Rules Committee may make funds available from the Contingent Funds of the Assembly and Senate or from funds received from grants pursuant to paragraph (9), below, 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.

(9) The Joint Rules Committee may accept grants on behalf of the Joint Legislative Committee on Tort Liability from federal, state, or local agencies, or from private sources, to be used exclusively in order to assist the Joint Legislative Committee on Tort Liability in carrying out its duties, functions, and powers under this resolution.

(10) The Joint Legislative Committee on Tort Liability shall continue to function until January 1, 1978, and on such date shall cease to exist; and be it further

Resolved, That the Legislature hereby authorizes the California Law Revision Commission to study whether the law relating to tort liability should be revised, including the rules governing liability for and the amount of compensation or damages to be paid on account of injury to or death of persons or damages to or destruction of property and the manner and method of determination and payment thereof and related matters, including a study of liability arising from defective products, whether based on contract or tort; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission.